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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

RIN 3206–AJ53

Excepted Service—Schedule A Authority for Chinese, Japanese, and Hindu Interpreters

AGENCY: Office of Personnel Management

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management (OPM) is revoking the Schedule A excepted service appointing authority for Chinese, Japanese and Hindu interpreters because the conditions justifying the original exception no longer exist. Revocation brings the positions filled under this Schedule A authority into the competitive service. it also permits the noncompetitive conversion of persons serving under the authority to either competitive or excepted service appointments.

DATES: *Effective date:* November 21, 2002.

Compliance date: Agencies may move any incumbents from § 213.3102(f) authority by February 19, 2003.

FOR FURTHER INFORMATION CONTACT: Christina Vay on 202–606–0960.

SUPPLEMENTARY INFORMATION: The Governmentwide Schedule A authority, 5 CFR 212.3102(f), was established in 1903. Competitive examining to fill Federal jobs has changed drastically in the almost 100 years since this authority's creation. Agencies can now successfully examine for positions with specific language requirements. They already do so for interpreters of many languages, including Chinese, Japanese, and Hindu.

Proposed regulations were published January 23, 2002 (67 FR 3128). We received two comments from agencies supporting the revocation. Because we did not received comments to support continuing the authority, we are continuing with our proposal to revoke it.

Agencies may no longer appoint persons under this authority as of November 21, 2002. Agencies will have 90 days from the date of publication to move the employees currently serving under § 213.3102(f) to the competitive service. The authority to retain persons in the competitive service based on revocation of an excepted appointing authority is 5 CFR 316.702.

We recognize the fact that agencies have critical workforce skill gaps for positions requiring foreign language skills. The General Accounting Office reported this in their January 2002 report on correcting foreign language staffing and proficiency shortfalls. However, almost all of the agencies identified in the report operate different personnel systems that do not follow OPM regulations. Consequently, the Schedule A we are revoking does not affect or help their efforts to fill the skill gaps.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations pertain only to Federal employees and agencies.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 213

Government employees. Reporting and recordkeeping requirements.

Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, OPM is amending 5 CFR part 213 as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for part 213 is revised to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; § 213.101 also issued under 5 U.S.C. 2103; § 213.102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h) and 8456; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185; 38 U.S.C. 4301 *et seq.*; and Pub. L. 106–117 (113 Stat. 1545).

§ 213.3102 [Amended]

2. Paragraph (f) of § 213.3102 is removed and reserved.

[FR Doc. 02–29440 Filed 11–20–02; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

7 CFR Part 652

Technical Service Provider Assistance

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule sets forth the Department's process for administering the provision of conservation technical assistance by technical service providers as authorized under section 1242 of the Food Security Act, as amended by the Farm Security and Rural Investment Act of 2002 (2002 Farm Bill). The Secretary of Agriculture has delegated responsibility for administering technical services provided by technical service providers to the Natural Resources Conservation Service (NRCS). NRCS seeks comments from the public on this interim final rule.

DATES: *Effective date:* March 1, 2003. Comments must be received by February 19, 2003.

ADDRESSES: Send comments by mail to Melissa Hammond, Technical Service Provider Coordinator, Natural Resources Conservation Service (NRCS), P.O. Box 2890, Washington, DC 20013, or by e-mail to: *melissa.hammond@usda.gov;* attn: Technical Service Provider Assistance. This interim final rule may also be accessed via the Internet through the NRCS homepage at *http://www.nrcs.usda.gov* and selecting Farm Bill 2002.

FOR FURTHER INFORMATION CONTACT: Melissa Hammond, Technical Service Provider Coordinator, Strategic Natural Resource Issues Staff, NRCS, P.O. Box 2890, Washington, DC 20013–2890, telephone: (202) 720–6731; fax: (202) 720–3052; submit e-mail to:

gary.gross@usda.gov, Attention: Technical Service Provider Assistance.

SUPPLEMENTARY INFORMATION:

Background

In 1994, the Department of Agriculture reorganized and transferred increased responsibilities for administration of conservation programs to the Natural Resources Conservation Service (NRCS) to provide technical and financial assistance to producers to improve the natural resource conditions on their land. The Federal Agricultural Improvement and Reform Act of 1996 (the 1996 Farm Bill), Public Law 104–127, created several new conservation programs for which the Secretary of Agriculture delegated administrative responsibility to NRCS.

Through the implementation of its conservation programs, NRCS utilizes its technical expertise to provide producers with information to help them make land management decisions. When a producer applies to participate in a conservation program, NRCS helps the producer evaluate the resource conditions on their land to determine the most appropriate way to meet the producer's conservation objectives. Through its conservation planning process, NRCS helps the producer develop a conservation plan and, depending upon the availability of funds, the Department provides financial assistance to the producer to implement identified conservation practices or systems.

The 2002 Farm Bill

The Farm Security and Rural Investment Act of 2002 (the ''2002 Farm Bill''), Public Law 107–171, expanded the availability of financial and technical assistance funds for the implementation of conservation programs. At the time of enactment, the Congressional Budget Office estimated that the 2002 Farm Bill represented a $17 billion increase in the level of funding for conservation programs.

The current staffing levels of NRCS are insufficient to adequately meet the increased need for technical assistance under the conservation programs authorized or re-authorized by the 2002 Farm Bill. Section 2701 of the 2002 Farm Bill amended section 1242 of the Food Security Act of 1985 (''Food Security Act''), as amended, to require the Secretary of Agriculture to provide technical assistance under the Food Security Act conservation programs to a producer eligible for that assistance ''directly * * * or at the option of the producer, through a payment * * * to the producer for an approved third party, if available.'' The Secretary of Agriculture delegated authority to implement section 1242 to NRCS.

Section 1242 of the Food Security Act greatly expands the availability of technical assistance to producers by encouraging other potential providers of technical assistance to assist in the delivery of technical services. To ensure that high quality technical services are available to all producers, section 1242 requires the Secretary of Agriculture to establish, by regulation, a system for ''approving individuals and entities to provide technical assistance to carry out programs under the (Farm Bill) * * * and establishing the amounts and methods for payments for that assistance.''

This interim final rule establishes a certification process under which NRCS may evaluate and approve individuals, entities, and public agencies as eligible to provide conservation technical services for certain conservation programs. The interim final rule establishes the criteria by which NRCS will evaluate all potential providers of technical assistance. NRCS will only make payment to a producer for technical services obtained from a technical service provider that has been certified by NRCS to provide such assistance.

The interim final rule distinguishes between certification of an individual working under his or her own auspices and that of an organization, such as a corporation or a public agency, which has individuals working on its behalf. Certification of an individual means the individual has the requisite education and technical expertise to perform the technical services. Certification of an entity or public agency means that the organization may receive payment for the services provided by individuals working under its auspices, but the work must be performed or warranted by certified individuals and the organization must assume the liability for the quality of work performed.

The interim final rule also sets forth conditions and procedures by which NRCS may determine that a certified technical service provider has failed to provide producers high quality technical services and thus, should not remain certified as a provider of technical assistance for conservation programs under Title XII of the Food Security Act.

While section 1242 increases a producer's available sources of technical assistance, it also maintains the options available to NRCS to acquire assistance in meeting its own responsibilities under Title XII. In particular, section 1242(b)(4) of the Food Security Act provides that the Secretary may request the services of, and enter into cooperative agreements or contracts with, non-Federal entities to assist in providing technical assistance necessary to develop and implement Title XII conservation programs. NRCS may utilize its inherent contracting authority or the authority under section 714 of the Agricultural Appropriations Act for FY 2001, Public Law 106–387, 7 U.S.C. 6962a, to obtain technical services. NRCS may also enter into a cooperative agreement with a technical service provider or other cooperator to stimulate the availability of technical assistance. NRCS will only utilize technical assistance from technical service providers that have been certified under the provisions of this interim final rule.

NRCS has determined that producers will need the delivery of high quality technical assistance immediately. Therefore, NRCS believes that the provisions of this rule are appropriately promulgated as an interim final rule.

Summary of Provisions

Through this rulemaking process, the Department seeks to establish processes that provide efficient and effective technical services to producers participating in USDA conservation programs in a manner that optimizes conservation benefits. In particular, the Department aims to provide a performance-based system where producers can take full advantage of the marketplace and obtain cost-effective delivery of quality technical services.

The regulations promulgated by this interim final rule are divided into three subparts. Subpart A sets forth the general provisions related to the delivery of technical services. Subpart B sets forth the certification criteria and process NRCS will utilize to evaluate a technical service provider to determine whether such provider is eligible to provide technical assistance under Title XII. Subpart C sets forth the process and causes under which a technical service provider may become decertified and, therefore, ineligible to provide technical services.

Subpart A—General Provisions

Subpart A describes how program participants choose technical service providers, and how program participants may receive payment from the Department for those services. Specifically, the Department will reimburse a program participant if they select a technical service provider from the approved list of technical service providers and the technical services provided meet all legal and program requirements. The Department may also

pay the technical service provider directly if the program participant submits an assignment of payment form.

Subpart A also describes how the Department will expand its delivery of technical services to program participants. Though not in the rule, the Department intends to establish in policy that it will not hire additional Federal employees above its baseline staffing levels unless it has first sought to meet the additional demand for technical services from non-Federal sources through contracts, contribution agreements, and cooperative agreements.

The Department must follow existing procurement and financial assistance laws when it enters into transactions to expand the availability of technical services. The types of transactions are described in greater detail in the preamble discussion under § 652.6.

Additionally, the Department and any technical service provider it hires must abide by Federal disclosure and privacy laws, including the Freedom of Information Act and the Privacy Act. However, the technical service providers hired directly by program participants are not subject to these legal requirements. Therefore, the Department encourages program participants to ensure that their contracts with their technical service providers provide for the appropriate confidentiality of personal information.

Subpart A also addresses the quality assurance measures that the Department will utilize to maintain high quality technical service delivery. The Department may decertify technical service providers based on information obtained through the quality assurance process.

Section 652.1, Definitions, sets forth the definitions for the terms used throughout the regulation.

Section 652.2, Applicability, sets forth the purpose and scope of the regulations for technical services. The purpose of the regulations is to establish a system for expanding the delivery of technical services available to producers under the Food Security Act.

Section 652.3, Administration, describes the basic responsibilities NRCS has in the management of the technical service delivery process, including certification, decertification, recertification, and certification renewal. NRCS will establish the processes and procedures for certification of technical service providers and will assess the availability and utilization of such providers. NRCS wants to ensure that technical service providers are available to producers. NRCS encourages all sources of technical service providers to participate in the delivery of conservation programs. In its management of the technical service delivery process, NRCS will track payments for the technical service provided by technical service providers. NRCS will also track conservation accomplishments based on information reported to NRCS by technical service providers pursuant to § 652.4(g).

Historical relationships and agreements between USDA and conservation partners will need to be evaluated, and modified as needed, to avoid conflicts of interest, or the appearance thereof, as those partners engage in providing technical services as technical service providers in accordance with this rule.

Section 652.4, Technical service standards, sets forth the technical service standards that all technical service providers must meet in order to receive payment from the Department for the technical services provided. In particular, all technical services provided by technical service providers must meet applicable NRCS standards and specifications. The regulations identify several of those standards but are not exhaustive. NRCS National standards, and State standards and specifications, may be found through links at the Web site *http://www.nrcs.usda.gov*. NRCS establishes this minimum standard for technical services to ensure uniformity among the various sources of technical service providers, conformity with NRCS conservation program requirements, and dependability of the quality of service that producers will receive.

NRCS has historically encouraged the development and utilization of new and innovative conservation practices through adoption of such practices when proven effective, for example, practices related to air quality. In particular, the Environmental Quality Incentives Program provides for the utilization of such new and innovative conservation practices. However, until NRCS has evaluated the effectiveness of such practices, it will not provide payment for the technical services needed to plan and implement new practices. Therefore, the interim final rule requires that a technical service provider seek NRCS approval prior to initiating technical services for a new or innovative technology or practice.

To assist NRCS with its quality assurance process set forth in § 652.7, NRCS incorporated in § 652.4 several requirements of technical service providers. In particular, NRCS requires that the technical service provider sign a written certification that the technical services provided for a particular practice or plan complies with all program requirements, legal requirements, and NRCS standards and specifications, and is consistent with the conservation goals and programs under which the assistance is given. This requirement makes it clear that a technical service provider is responsible for the quality of the assistance provided to either the producer or the Department.

NRCS requires a technical service provider to assume all legal responsibility for the quality of the work provided. Thus, if a producer implements a deficient conservation plan developed by a technical service provider and implementation of the plan results in harm or injury, the technical service provider, not the producer, is liable. This provision protects a producer from liability that was not caused through any fault of the producer. The producer is responsible in all cases for complying with the terms and conditions of the program contract or agreement, which includes meeting USDA technical standards and specifications.

Language is also included in the regulations regarding incorporation of low-cost alternatives, where appropriate, to address the resource issues and meet the objectives of both the program and program participant.

Finally, this section provides that NRCS is not contractually bound to the program participant to provide reimbursement for technical services or practice implementation that is not consistent with NRCS standards and specifications. Where NRCS does not provide the technical assistance for the development of a conservation plan incorporated into its program agreements, NRCS reserves the right to ensure that a program agreement is implemented in accordance with program requirements, including requiring that practices meet NRCS standards and specifications. This provision allows NRCS to continue to meet the conservation program goals and objectives for which it has the delegated responsibility.

This section also requires technical service providers to input data into the NRCS conservation accomplishments tracking system. NRCS will utilize this information as part of its quality assurance process under § 652.7.

Section 652.5, Program participant acquisition of technical services, describes how program participants may obtain technical services from sources other than the Department and receive reimbursement for those technical services. This section describes that a

program participant may obtain technical services from the Department or any individual, entity, or public agency certified by NRCS under this interim final rule to provide technical services.

If a producer wishes the Department to provide technical services, he or she should contact NRCS at the local USDA Service Center. If the producer wishes to utilize a different source of technical service, he or she should obtain information from the Department about program requirements and payment terms. To ensure necessary funds are available to reimburse the program participant, the Department and the program participant must incorporate and obligate under the program contract or agreement the estimated amount of funds needed.

A producer must choose a certified technical service provider from the appropriate NRCS approved list of technical service providers in order to obtain reimbursement for the costs associated with those services. The list of approved technical service providers for the particular category of technical services will be available through the NRCS home page on the Internet, or can be obtained from the local USDA service center. In order to receive reimbursement, once the technical services have been provided and meet program requirements, the program participant would submit to NRCS or FSA, as appropriate, an invoice, any supporting documentation, and a request for payment.

In many situations, a program participant needs to obtain technical services prior to entering into a program contract or agreement with either NRCS or the Farm Service Agency. NRCS or the Farm Service Agency (collectively referred to as the Department) may reimburse a participant for pre-program contract or agreement technical services obtained to complete program related activities prior to entering a program contract or agreement and develop a conservation plan. The participant must provide to either NRCS or the Farm Service Agency an invoice and documentation of the technical services provided by a certified technical service provider in order to be reimbursed for these costs.

The terms and conditions of a program contract or agreement will provide for the reimbursement of the producer for technical services provided by a certified technical service provider. The Department is interested in developing a dynamic approach to its payment rates schedule in order to ensure that its payment rates do not lag behind the development of technological efficiencies that decrease the time and price associated with the delivery of technical services.

The Department's goal in developing a method of setting payment rates is to obtain the most competitive payment rates while ensuring that program participants have access to the widest available range of qualified technical service providers. The Department is seeking comments on how to design rate payments that are transparent, easy to implement, and ensure competition in program participant acquisition of technical services. The Department intends to publish an amendment to this interim final rule within the next 30 days that will explain in detail the payment rate process. The Department is seeking comments on how to design a rate setting process that would be easy to implement yet sensitive to regional or local pricing variation.

The Department is considering whether to establish payment rates by conducting a State by State solicitation of technical service prices from individuals, private-sector entities, and public agencies in order to ascertain the current market prices for delivering technical services. If chosen, the Department would utilize an existing Internet based notice posting system to solicit from technical service provider sources their respective price data for particular technical services. This process would involve electronically uploading a Departmental ''Sources Sought Notice'' to the posting system, requesting potential technical service providers to submit a listing of service prices, and consolidating the price data from all respondents. The Department would analyze the information submitted pursuant to its solicitation as part of its process for determining payment rates. After the first year of operation, the Department would adjust the rates each year thereafter, or more frequently if needed, using current market data it obtained from technical service providers, an updated solicitation to all sources, or a combination thereof.

In using the information obtained from this solicitation, the Department could set a ''not-to-exceed'' rate. To ensure healthy competition within the market, this rate could not be set so low as to discourage all participation by viable technical service providers nor could it be set so high as to result in wasteful federal expenditures. To encourage competition, the Department is also considering options that would create incentives for producers to choose the most efficient provider of technical services in the market place, such incentives could include providing a cost savings to program participants that choose a technical service provider with a price below a ''not-to-exceed'' rate.

The Department is also considering basing technical service payments upon a flat rate. Under this option, the Department would pay a flat rate for each project. Thus, if a project costs $20,000 to install, the program participant would be reimbursed $4000, or 20% of the project cost, for the technical services obtained from a technical service provider. However, this approach may not adequately reflect the actual price for technical services on any particular project and might adversely affect obtaining technical services for projects that are small or more complex in scope because the actual price for the design could exceed the flat rate.

In addition, the Department is also considering basing technical service payment rates based on its own costs to deliver the technical services. Under this option, the Department would estimate the technical service rates and establish not-to-exceed rates for use in program contracts or agreements. These rates would not exceed the Federal Government rates to deliver the same service. The Department is interested in obtaining public comment on these or other feasible methods for establishing payment rates that will provide the greatest opportunity for the market place to inform the price of technical services while providing maximum flexibility to program participants to choose a technical service provider.

Section 652.6, Department delivery of technical services, describes the types of legal instruments the Department may enter into to deliver technical services to producers. The Department will provide technical services directly to a producer when chosen by the producer to provide those services. When Department baseline staffing levels do not meet the demand for its technical services, the Department may procure additional technical services through a procurement contract or a cooperative agreement entered into under the authority of section 714 of the Agricultural Appropriations Act of 2001 (the 2001 Act), Public Law 106–387, 7 U.S.C. 6962a. As mentioned above, the Department intends to adopt by policy that it will seek to meet the additional demand for technical services from non-Federal sources. To avoid confusion, ''non-assistance'' cooperative agreements under section 714 are identified as ''contribution agreements'' to distinguish them from cooperative agreements as defined by the Federal Grant and Cooperative Agreement Act

(FGCAA), 31 U.S.C. 6301 *et seq.* The Department may also meet the additional demand for technical services by stimulating the availability of additional technical services through a cooperative agreement as defined by the FGCAA.

NRCS utilizes contribution agreements for obtaining technical services and receives from a contributing party financial and in-kind donation of goods, services, and personal services. NRCS ensures Federal funds are wisely spent by requiring that the level of contribution by the other party justify the non-competitive nature of the transaction. For transactions where NRCS seeks to obtain technical services for a particular project or for more widespread programmatic needs, NRCS will only enter into a contribution agreement with a certified technical service provider where such a provider donates at least 50% of the technical services needed.

Contribution agreements that do not include the provision of technical services are outside of the scope of this rule, and NRCS will evaluate the merit of entering into each such agreement based upon the particular nature of the project and the level of contribution by the other party.

For transactions where the Department seeks to stimulate the expansion of the level of technical services provided to producers, the Department may enter into a cooperative agreement that is governed by the FGCAA and its implementing regulations and circulars.

The Department reaffirms its commitment to competitive cooperative agreements by referencing in § 652.6 the competition requirements in 7 CFR part 3015. Section 652.6(b) identifies that the Chief of the NRCS or his designee, or the Administrator of FSA as appropriate, are authorized to determine that an exception to the competition requirements are in the best interest of the Government and needed to fulfill the objectives of the program.

The Department anticipates that most technical service providers will be selected and hired directly by the program participant and paid under the terms of the program contract or agreement entered into between the program participant and the Department. However, because of the anticipated increase in workload that the 2002 Farm Bill creates, the Department may need to procure services from technical service providers in meeting its own responsibilities to deliver conservation program technical assistance.

Department policy encourages the expansion of technical services provided by all sources, especially private and commercial sources. Wherever appropriate and in the best interest of the Government, the Department will utilize the procurement process to obtain any additional technical services necessary to implement the conservation programs. The interim final rule, in § 652.6(b) indicates that the Chief or the Administrator of FSA may limit the utilization of cooperative agreements and contribution agreements in obtaining or stimulating technical services in order to ensure openness and competitiveness in the process.

Section 652.6(c) addresses an NRCS concern about the possibility of unfair competitive advantage by the individuals, private-sector entities, and public agencies with which NRCS may enter into a contract or agreement. NRCS believes that a technical service provider hired directly by NRCS to assist the agency with its responsibilities could have an unfair competitive advantage over other technical service providers when being selected by program participants. For example, individuals and organizations hired by NRCS may have superior knowledge regarding the technical service needs of particular producers that would give them a competitive advantage over other providers. In addition, NRCS is concerned that a technical service provider may receive payment twice for performing the same work, once through the contract or agreement with the Department and a second time through the producer's program contract or agreement.

Therefore, NRCS requires in the interim final rule that a technical service provider hired by NRCS to provide technical services to a particular program participant is ineligible to receive a payment under a program contract or agreement for that same program participant.

Section 652.7, Quality assurance, provides that NRCS will evaluate the quality of the technical services provided by certified technical service providers. This section provides for a process through which NRCS will evaluate technical services performed by technical service providers. NRCS requires under § 652.4(g) that technical service providers make available certain information that can be utilized in its quality assurance process. While this information may be utilized to decertify a technical service provider, the purpose is to discover deficiencies in the technical service delivery and allow the technical service provider to take remedial action before such decertification action becomes necessary.

Subpart B—Certification

This subpart contains technical service provider criteria for certification requirements; processes to certify individuals, private-sector entities, and public agencies; requirements for recommending organizations; and the process and requirements for certification renewal.

In order to meet the requirements of 16 U.S.C. 3842(b)(3) regarding ''Interim Assistance,'' NRCS will consider entities and individuals who are currently providing technical services through the Department under a contract, cooperative agreement, or contribution agreement as ''conditionally certified'' to ensure the continued availability of technical services from these providers for a transitional period before this regulation is effective and implemented. The terms of this conditional certification are: (1) The individual or entity must be operating under a contract, cooperative agreement, or contribution agreement that is in effect on the date of publication of this rule; (2) the individual or entity must submit an Application for Certification by March 1, 2003; and (3) the conditional certification expires by either the date a Certification Agreement is entered or September 30, 2003, whichever is earlier. These terms will allow entities and individuals to continue to provide technical services under their respective contracts, cooperative agreements, or contribution agreements during FY 2003 until NRCS is able to evaluate such individuals and organizations under the certification process set forth in this part. Section 652.21(f) of this rule sets forth these terms and conditions for conditional certification of individuals, private-sector entities, and public agencies providing technical services under current contracts, cooperative agreements, or contribution agreements.

Additionally, NRCS will also consider individuals that are certified under NRCS policies in place prior to the publication of this interim final rule as conditionally certified. The terms of this conditional certification are: (1) The individual or entity must have been certified under such policies prior to the publication of this interim final rule; (2) the individual or entity must submit an Application for Certification by March 1, 2003; and (3) the conditional certification expires either by the date a Certification Agreement is entered or September 30, 2003, whichever is earlier. Section 652.21(g) of this rule

sets forth these terms and conditions for conditional certification of individuals who were certified under pre-existing NRCS policy.

NRCS believes that the availability of training is essential to the successful implementation of the certification process. NRCS anticipates that a substantial amount of training will be needed for applicants to become certified as technical service providers. The specific training needed will vary from State-to-State depending on the type and quantity of technical services needed to address the additional Title XII Farm Bill workload in each State, the overall interest by applicants to become technical service providers, and the private and public sector mix in providing technical services.

NRCS encourages the development and presentation of training opportunities from a wide variety of sources. NRCS anticipates that universities, colleges, land grant institutions, the Extension Service, private entities, and other sources may be used by the Department to develop and provide the training. NRCS is particularly interested in comments from the public regarding all aspects of technical service provider training.

Individuals interested in becoming certified are responsible for obtaining the training they need to become certified as technical service providers, for keeping their own training records current, and for providing documentation for certification purposes on the training they have received. Costs associated with becoming a technical service provider, as well as maintaining or renewing certification, are the responsibility of the individual seeking certification.

NRCS will publish on its home web page by December 31, 2002, further instructions, guidance, forms, and the process related to the submittal of applications for certification. NRCS will begin to accept applications and recommendations for certification on January 2, 2003, and will review these submittals as they are received. While NRCS may enter into Certification Agreements with technical service providers prior to March 1, 2003, such certifications will not be effective until the effective date of this interim final rule.

NRCS is seeking comments and ideas for streamlining the certification process to make it as efficient and effective as possible. NRCS is also seeking input regarding methods to minimize the burden of certification for applicants seeking certification for more than one state. Of particular interest is how variation in State laws and requirements should be addressed within a certification system.

Section 652.21, Certification criteria and requirements, sets forth the certification criteria and other requirements for certification of individuals. All individuals must meet the NRCS certification criteria and requirements in order to be certified by the agency to provide technical services to program participants and the Department. NRCS requires that all certified individuals have the necessary training, experience, and knowledge to perform the technical services for which certification is sought. Because the technical services are performed to assist producers to participate in Department conservation programs, the certified individual must have working familiarity with Department standards, specifications, and program requirements. These requirements are set forth in Department manuals, handbooks, and other references that are available on the web at *http://www.nrcs.usda.gov* to the technical service provider.

In conjunction with the certification, NRCS will enter into a Certification Agreement with the applicant. The Certification Agreement documents the terms and conditions of the certification. Technical service providers are certified for a three-year time period and may have their certification renewed for subsequent time periods. The interim final rule also provides that NRCS will establish and collect fees related to the certification of technical service providers. NRCS will make available to the public any fee schedule established under this provision.

Section 652.22, Certification process for individuals, sets forth the certification process for individuals to become certified. In order to be considered for certification, individuals must: submit an Application for Certification to NRCS, be recommended for certification by a recommending organization as provided by § 652.25, or be included as part of the certification application submitted by a private-sector entity or public agency. Whatever avenue is chosen by the individual, NRCS will determine within 60 days of receipt of an application if the applicant meets the requirements for certification and will enter into a Certification Agreement with the applicant at the time of certification. After execution of a Certification Agreement, NRCS then place the individual's name on the approved list of technical service providers for that State. The list will be available on the Department's Web site. A payment will not be made for technical services provided by the individual under this part until the individual is certified and placed on the approved list.

The Application for Certification and the Certification Agreement will be available on the National and State NRCS Web sites in a PDF format for easy accessibility and use.

Section 652.23, Certification process for private-sector entities, sets forth the certification process for private-sector entities. Certification of an entity means that the entity may receive payment for the services provided by individuals working under its auspices, but the work must be warranted first by a certified individual within the entity, and the organization must assume the liability for the quality of work performed.

Thus, a private-sector entity may be approved to provide technical services and receive payment for those services as long as the entity has at least one certified individual acting on its behalf. In addition, the entity must identify an official of the entity that is authorized to receive official correspondence related to the status of the entity's certification. The interim final rule provides that an individual(s) may seek certification as part of the application package of the private-sector entity.

All individuals warranting technical services on behalf of the entity must be individually certified and identified on the entity's Application and Certification Agreement. Non-certified individuals may provide input to the technical services provided by the entity, but the work products developed by these individuals must be adopted and warranted by one of the certified individuals identified on the entity's Application and Certification Agreement. Thus, if a non-certified engineer drafts an engineering drawing, the engineer who is certified to provide such engineering services must sign the final drawing and warrant that it meets the requirements set forth in § 652.4. Individuals working under the private-sector's auspices must act within the terms and conditions of a signed Certification Agreement between NRCS and the entity.

NRCS may decertify the entire entity or any individual or individuals working under the auspices of such entity in accordance with the provisions of Subpart C.

Section 652.24, Certification process for public agencies, sets forth the certification process for public agencies. Public agencies possess through their employees certain expertise and skills to carry out their mission that may match the expertise and skills needed to

provide technical services to program participants and the Department.

The interim final rule distinguishes between certification of a public agency under this section and certification of an individual working under the individual's own auspices. Certification of a public agency means that the agency may receive payment for the services provided by individuals working under its auspices, but the work must first be warranted by a certified individual within the agency, and the public agency must assume liability for the quality of the work provided.

Thus, a public agency may be approved to provide technical services and receive payments for those services as long as the agency has at least one certified individual acting on its behalf. In addition, the agency itself must identify an official that is authorized to receive official correspondence related to the status of the agency's certification. The interim final rule provides that an individual may seek certification as part of the application package of the public agency.

Employees of the public agency that warrant technical services on behalf of the agency must be individually certified and identified by the public agency as those employees authorized to perform the technical services in the Application and Certification Agreement. Just as described for private-sector entities, a non-certified employee of a public agency may provide input into the technical services provided by the public agency, but the work products developed by these individuals must be adopted and warranted by one of the certified individuals identified on the agency's Application and Certification Agreement. These individuals must operate within the terms and conditions of a signed Certification Agreement between the agency and NRCS.

NRCS believes that there exists a potential appearance of impropriety where public officials provide similar duties in both their official public and private capacities. NRCS is concerned that program participants may be confused about the capacity under which a certified individual that works for a public agency is providing services to them. Public employees are held to a higher standard of conduct when providing assistance than private sector individuals and entities providing a similar service to a customer. For example, public agencies have certain disclosure and confidentiality requirements regarding information they obtain from producers that do not apply to private sector individuals and entities.

While nearly all public agencies already have restrictions regarding outside employment of its employees, the Department requires, as part of the public agency's certification that its employees may not provide technical services as an individual or as a member of a public-sector entity outside of the auspices of that agency.

Section 652.25, Alternative application process for individual certification, provides for an alternative to the process set forth in § 652.22 for individuals to be considered for certification by NRCS. In lieu of submitting an Application for Certification directly to NRCS pursuant to § 652.22, individuals may be considered for certification through the recommendation of an organization (''recommending organization'') with which NRCS has a memorandum of understanding or other appropriate agreement providing for such recommendation. A recommending organization is a professional organization, association, licensing board or other entity that NRCS has determined has an accreditation program to train, test, and evaluate individuals for competency in a particular area or areas of technical service delivery and whose accreditation program meets the certification criteria set forth in § 652.25.

NRCS's use of, or partnership with, recommending organizations is intended to streamline the certification process to the greatest extent possible by eliminating the need for each individual to submit an Application for Certification and by recognizing the specific accreditation expertise of various organizations.

Prior to entering into an agreement with a recommending organization, NRCS determines whether the organization's accreditation program meets NRCS standards and specifications for the particular technical services to be provided. As set forth in § 652.25(b), the agreement between NRCS and a recommending organization contains specific requirements related to how the organization recommends individuals to NRCS for certification.

NRCS makes the final determination whether to certify for each individual recommended by an organization. The authority of the agency to certify is non-delegable and is made by the appropriate NRCS official based upon his or her assessment of whether an applicant meets the criteria as set forth in this part. NRCS may terminate an agreement with a recommending organization if NRCS determines that the organization has violated any of the terms of the agreement or if any other problems arise in the organization's certification recommendations. In considering whether to terminate any agreement with a recommending organization, the agency's duty to ensure that only qualified individuals are certified to be technical service providers is paramount.

Section 652.26, Certification renewal, sets forth the process and requirements for certification renewal for individuals, private-sector entities, and public agencies. NRCS believes that technical service provider certifications should have a finite time limit in order to ensure that the certification requirements are still being met and to reaffirm the terms and conditions of the current Certification Agreement. Accordingly, all technical service providers must renew their certification every three years. Technical service providers decertified in accordance with the provisions in Subpart C, who are seeking to become re-certified after the period of decertification has expired, must reapply for certification through the regular application process.

NRCS is providing a streamlined process for certification renewal in the interim rule. A standard renewal form, Certification Renewal, will be available on the National and State NRCS Web sites in a PDF format. The technical service provider must complete and submit their request for Certification Renewal to NRCS at least 60 days prior to the current certification expiration date. All renewals are in effect for three years and may be subsequently renewed for three-year periods.

Subpart C—Decertification

In order to protect the public interest and to ensure the adequate provision of technical assistance under its conservation programs, the Department's policy is to certify and maintain certification of only those individuals who meet the criteria set forth in this rule and who act responsibly in the provision of technical assistance. The decertification process set forth in subpart C is the means by which the Department carries out this policy. The Department is promulgating these regulations to provide for a decertification process because neither the National Appeals Division nor Government-wide Suspension and Debarment regulations apply to the decertification of technical service providers. Specifically, the National Appeal Division's regulations apply to appeals related to program participants

as that term is defined by 7 CFR 11.1. Technical service providers are not ''program participants.'' The decertification process described herein is more akin to the Government-wide Debarment and Suspension (Nonprocurement) regulations at 7 CFR part 3017, which are specifically excluded from the definition of program participant in 7 CFR 11.1. However, the Government-wide Suspension and Debarment regulations at 7 CFR 3017.110(a)(3)(iii) exclude conservation programs from applicability.

The dual goals of the decertification process are: (1) To establish an efficient administrative process by which technical service providers who fail to meet NRCS standards and specifications in the provision of technical service or otherwise fail to meet the terms of the Certification Agreement, i.e., act responsibly, are decertified from providing technical services to the Department and to program participants, and (2) to ensure adequate due process to the technical service providers who are proposed for decertification. The purpose of the decertification process is to protect the public interest by removing those technical service providers from the approved list who fail to act responsibly.

Section 652.31, Policy, sets forth general guidelines regarding the causes for decertification. It is not the Department's intent to decertify an otherwise responsible technical service provider for minor inconsistencies with NRCS standards and specifications if those failures are infrequent events, and the technical service provider works in good faith to remedy any problems. The Department encourages technical service providers to act proactively in remedying any technical services that fail to meet NRCS standards and specifications. To the extent it is able, NRCS will work with those technical service providers who ask for assistance in addressing deficiencies in their provision of technical service. The Department will decertify those technical service providers who demonstrate a failure to act responsibly in the provision of technical service.

Accordingly, *§ 652.32,* Causes of decertification, sets forth the causes for decertification. These causes include failures in the provision of technical service to the extent that the practice is ineffective or environmentally harmful and/or other violations of the terms of the Certification Agreement. In addition, a catch-all provision is included under this section to cover any other cause of a serious or compelling nature demonstrating a technical service provider's failure to fulfill the terms of their Certification Agreement.

Section 652.33, Notice of proposed decertification, provides that the State Conservationist will send to any technical service provider proposed for decertification a Notice of Proposed Decertification. This section also sets forth the required content of the Notice of Proposed Decertification. In addition, this section provides that the Notice will identify the certified individuals who work under the auspices of a technical service provider (such as a public agency or private-sector organization), who are also being considered for decertification. Certified individuals have a separate right of appeal. In order to appeal, certified individuals must follow the process and deadlines set forth in this subpart.

Section 652.34, Opportunity to contest decertification, sets forth the process, including the deadlines, for a technical service provider to contest any Notice of Proposed Decertification.

Section 652.35, State Conservationist decision, provides the time lines for the State Conservationist's decision regarding whether to decertify, the basis for the decision, and the required notices to the technical service provider of the State Conservationist's decision.

Section 652.36, Appeals of decertification decisions, provides for appeal by the technical service provider of a State Conservationist's decision to the Chief, deadlines for appeal, issuance of the final decision, and the contents of the Chief's final decision. Section 652.36 also provides that the Chief may delegate his duties as the decertifying officer to an NRCS employee in the National Office.

Section 652.37, Period of decertification, provides general guidelines for the decertifying official's (the State Conservationist or Chief, as appropriate) determination regarding the period of decertification. These guidelines are meant to be flexible while at the same time providing technical service providers with a general idea of how the period of decertification is decided upon. As is true of the entire decertification process, determination of the length of the decertification period is intended to protect the public interest by removing from the list of approved providers those technical service providers who fail to act responsibly in the provision of technical service. The length of the decertification period is commensurate with the degree to which the technical service provider has violated the terms of the Certification Agreement, including meeting NRCS standards and specifications. It is within the decertifying official's discretion to decide the period of decertification based upon the general guidelines, the facts of the particular case, and any mitigating factors.

Section 652.38, Scope of decertification, provides guidance on the scope of a decertification. Decertification applies to an entire entity and all organizational elements thereunder of a technical service provider, whether the provider is a private sector entity or a public agency. The decertifying official must determine, based upon the facts of a situation, whether to decertify the entire organization (including the individuals identified as authorized to provide technical services under the auspices of such organization); the organization only; a particular individual or individuals acting under the auspices of that organization; and/or an organizational element of the public agency or private sector entity. For example, the decertifying official may decertify the private sector entity or public agency and a particular individual or individuals, but not all the individuals identified in the Certification Agreement, if the decertifying official finds that the actions of the entity or public agency and/or particular authorized individuals cannot be imputed to all the individuals identified as authorized to provide technical services under the auspices of the organization. The intent of this subpart is to decertify only those organizations or elements thereof and employees that are deficient in the provision of technical services. In making this determination, the decertifying official will also consider the terms of the Certification Agreement itself, which require the public agency and private sector to be responsible for the actions of their employees and/or agents.

As set forth in *§ 652.39,* Mitigating factors, the decertifying official takes into consideration any mitigating factors presented by the technical service provider when deciding whether to decertify as well as the scope and the period of decertification. Even though mitigating factors may be presented by a technical service provider, the decertifying official may still decide to decertify. This section provides general examples of mitigating factors. For example, subsection (c) provides as a mitigating factor actions a technical service provider takes to prevent future deficiencies in the provision of technical services which led to the Notice of Proposed Decertification, including deficiencies in the provision of technical service or in otherwise complying with the terms of the

Certification Agreement. Technical service providers are encouraged to mitigate any deficiencies in the provision of technical services.

Section 652.40, Effect of decertification, sets forth the effect of a decertification determination. During the time period of decertification, NRCS will not procure or cooperate with a decertified technical service provider nor will the Department reimburse a program participant for the services of a decertified provider. Current or on-going procurements, cooperative agreements or program agreements will not be affected retroactively by the listing of a technical service provider as decertified.

In addition, § 652.40 provides that the agency shall maintain a list of decertified technical service providers. When a technical service provider is decertified in one State, the effect is to decertify that provider in all States. NRCS will work diligently to keep the list current. The list will be available to the public through NRCS's Web site and at USDA Service Centers. It is the program participant's responsibility to check the list prior to securing a technical service provider's services. Further, the rule requires that no program participant may knowingly hire a decertified technical service provider.

Section 652.41, Effect of filing deadlines, provides that the failure of a technical service provider to meet filing deadlines results in the forfeiture of appeal rights and also clarifies the deadline for contest and appeal filings. These policies assist in the efficient and fair administration of the decertification process.

Finally, *section 652.42,* Recertification, states the agency's recertification policy for those technical service providers who have been decertified.

Regulatory Certifications

Executive Order 12866

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this interim final rule is a significant regulatory action and has been reviewed by the Office of Management and Budget (OMB). Pursuant to section 6(a)(3) of Executive Order 12866, NRCS conducted an economic analysis of the potential impacts associated with this rulemaking, and included the analysis as part of a Regulatory Impact Analysis document prepared for this interim final rule. The analysis estimates that the technical service provider process will have a beneficial impact on the Nation's natural resources by accelerating adoption of conservation practices, increasing environmental and resource benefits, maintaining and enhancing long-term productivity of the resource base, reducing non-point source pollution damage, reducing farming costs, and contributing to an increase in net farm income. A copy of this analysis is available upon request from Gary Gross, Resource Conservationist, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013–2890, or by e-mail to *gary.gross@usda.gov;* attn: Technical Service Provider Assistance—Economic Analysis, or at the following Web address: *http://www.nrcs.usda.gov.*

Executive Order 12988

This interim final rule has been reviewed in accordance with Executive Order 12988. The provisions of this interim final rule are not retroactive. The USDA has not identified any State or local laws that are in conflict with this regulation or that would impede full implementation of this rule. Nevertheless, in the event that such conflict is identified, the provisions of this interim final rule preempt State and local laws to the extent such laws are inconsistent with this rule.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(c) of the Regulatory Flexibility Act, it has been determined that this rule will not have a significant impact on a substantial number of small entities as defined by the Act. This rule sets forth the process by which entities could, on a voluntary basis, become certified providers. Therefore, a regulatory flexibility analysis is not required for this interim final rule. This interim final rule sets forth the policies and procedures for the provision of technical service provider assistance, which involves the voluntary participation of technical service providers.

National Environmental Policy Act

The regulations promulgated by this rule do not authorize any action that may negatively affect the human environment. Accordingly, an analysis of impacts under the National Environmental Policy Act has not been performed. The technical service provider process will help implement new and existing USDA conservation programs which are subject to the environmental analyses pursuant to the National Environmental Policy Act.

Paperwork Reduction Act

Section 2702 of the Farm Security and Rural Investment Act of 2002 requires that the promulgation of regulations and the administration of Title II of said act be carried out without regard to the chapter 35 of title 44 of the United States Code (commonly known as the Paperwork Reduction Act). Accordingly, these regulations and the forms, and other information collection activities need to administer technical service provider assistance under these regulations, are not subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

NRCS is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible and NRCS in particular to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The forms and other information collection activities required for participation in technical services delivery under this rule are not fully implemented for the public to conduct business with NRCS electronically. However, the required standard forms discussed in this rule will be available electronically through the USDA eForms Web site at *www.sc.egov.usda.gov* for downloading. The regulation will be available at the NRCS homepage at *www.nrcs.usda.gov.* Applications may be submitted as provided for in this rule. At this time, electronic submission is not available. However, NRCS is currently working on fully implementing electronic submission so that it is available in the future.

Unfunded Mandates Reform Act of 1995

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, NRCS assessed the effects of this rulemaking action on State, local, and Tribal governments, and the public. This action does not compel the expenditure of $100 million or more by any State, local, or Tribal governments, or anyone in the private sector; therefore, a statement under section 202 of the Unfunded Mandates Reform Act of 1995 is not required.

Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994

Pursuant to section 304 of the Department of Agriculture Reorganization Act of 1994, Public Law 104–354, USDA classified this interim final rule as not major.

Civil Rights Impact Analysis

A Civil Rights Impact Analysis has been completed regarding this rule. The review reveals no factors indicating any disproportionate adverse civil rights impacts for participants in NRCS programs and services who are minorities, women, or persons with disabilities. A copy of this analysis is available upon request from Gary Gross, Resource Conservationist, Natural Resources Conservation Service, PO Box 2890, Washington, DC 20013–2890, or by e-mail to *gary.gross@usda.gov;* attn: Technical Service Provider Assistance—Civil Rights Impact Analysis, or at the following web address: *http://www.nrcs.usda.gov.*

List of Subjects in 7 CFR Part 652

Natural Resources Conservation Service, Soil conservation, Technical assistance, Water resources.

For the reasons stated in the preamble, the Natural Resources Conservation Service hereby amends Title 7 of the Code of Federal Regulations as set forth below:

Accordingly, Title 7 of the code of Federal Regulations is amended by adding a new part 652 to read as follows:

PART 652—TECHNICAL SERVICE PROVIDER ASSISTANCE

Subpart A—General Provisions

Sec.
652.1 Definitions.
652.2 Applicability.
652.3 Administration.
652.4 Technical service standards.
652.5 Program participant acquisition of technical services.
652.6 Department delivery of technical services.
652.7 Quality assurance

Subpart B—Certification

652.21 Certification criteria and requirements.
652.22 Certification process for individuals.
652.23 Certification process for private-sector entities.
652.24 Certification process for public agencies.
652.25 Alternative application process for individual certification.
652.26 Certification renewal.

Subpart C—Decertification

652.31 Policy.
652.32 Causes of decertification.
652.33 Notice of proposed decertification.
652.34 Opportunity to contest decertification.
652.35 State Conservationist decision.
652.36 Appeals of decertification decisions.
652.37 Period of decertification.
652.38 Scope of decertification.
652.39 Mitigating factors.
652.40 Effect of decertification.
652.41 Effect of filing deadlines.
652.42 Recertification.

Authority: 16 U.S.C. 3842.

Subpart A—General Provisions

§ 652.1 Definitions.

The following definitions apply to this part and all documents issued in accordance with this part, unless specified otherwise:

Approved list means the list of individuals, private sector entities, or public agencies certified by the State Conservationist in each State to provide technical services to a program participant or to the Department.

Chief means the Chief of NRCS or designee.

Certification means the action taken by NRCS to approve:

(1) An individual as meeting the minimum NRCS criteria for providing technical service for conservation planning or a specific conservation practice or system; or

(2) An entity or public agency as having an employee or employees that meet the minimum NRCS criteria for providing technical service for conservation planning or a specific conservation practice or system.

Conservation practice means a specified treatment, such as a structural or vegetative practice, or a land management practice, that is planned and applied according to NRCS standards and specifications.

Contract means the same as that term is defined in the Federal Grants and Cooperative Agreement Act, 31 U.S.C. 6301 *et seq.*

Contribution agreement means the acquisition of technical services entered into under the authority of 7 U.S.C. 6962a.

Cooperative agreement means the same as that term is defined in the Federal Grants and Cooperative Agreement Act, 31 U.S.C. 6301 *et seq.*

Department means the Natural Resources Conservation Service, the Farm Service Agency, or any other agency or instrumentality of the United States Department of Agriculture that is assigned responsibility for all or a part of a conservation program subject to this part.

Entity means a corporation, joint stock company, association, limited partnership, limited liability partnership, limited liability company, nonprofit organization, a member of a joint venture, or a member of a similar organization.

Program participant or participant means a person who is eligible to receive technical or financial assistance under a conservation program covered by this rule.

Public agency means a unit or subdivision of Federal, State, local, or Tribal government, other than the Department.

Recommending organization means a professional organization, association, licensing board or similar organization with which NRCS has entered into an agreement to recommend qualified individuals for NRCS certification as technical service providers for specific technical services.

Secretary means the Secretary of the United States Department of Agriculture.

State Conservationist means the NRCS employee authorized to direct and supervise NRCS activities in a State, the Caribbean Area, or the Pacific Basin Area.

Technical service means the technical assistance provided by technical service providers, including conservation planning, and/or the design, layout, and installation of approved conservation practices.

Technical service provider means an individual, entity, or public agency certified by the State Conservationist and placed on the approved list to provide technical services to program participants or to the Department.

§ 652.2 Applicability.

The regulations in this part set forth the policies, procedures, and requirements related to delivery of technical assistance by individuals and entities other than the Department, hereinafter referred to as technical service providers.

§ 652.3 Administration.

(a) As provided in this part, the Department will provide technical assistance to program participants directly, or at the option of the program participant, through a technical service provider in accordance with the requirements of this part.

(b) The Chief, Natural Resources Conservation Service (NRCS) will direct and supervise the administration of the regulations in this part.

(c) NRCS will:

(1) Provide overall leadership and management for the development and administration of a technical service provider process;

(2) Consult with the Farm Service Agency and other appropriate agencies and entities concerning the availability and utilization of technical service providers and the implementation of technical service;

(3) Establish policies, procedures, guidance, and criteria for the certification, recertification, decertification, certification renewal,

and implementation of the use of technical service providers;

(4) Certify, decertify, and recertify technical service providers as well as renew certification for technical service providers.

(5) Encourage development and availability of training opportunities for individuals interested in becoming technical service providers;

(6) Track payment and accomplishment data related to technical services delivery; and

(7) Provide quality assurance for technical services provided by technical service providers.

(d) The Department will not make payments under a program contract or agreement, a contract, contribution agreement, or cooperative agreement for technical services provided by a technical service provider unless the technical service provider is certified by NRCS and is identified on the approved list.

(e) The Department will evaluate the terms and conditions of existing agreements with technical service providers to ensure that they are consistent with this part.

§ 652.4 Technical service standards.

(a) All technical services provided by technical service providers must meet USDA standards and specifications as set forth in Departmental manuals, handbooks, guides, and other references for soils mapping and natural resources information, conservation planning, conservation practice application, and other areas of technical assistance.

(b) The Department must approve all new technologies and innovative practices, including applicable standards and specifications, prior to a technical service provider initiating technical services for those technologies and practices.

(c) Pursuant to any contract or agreement with NRCS or with the program participant, the technical service provider must warrant in writing that the particular technical service provided:

(1) Complies with all applicable Federal, State, Tribal, and local laws and requirements;

(2) Meets applicable Department standards, specifications, and program requirements;

(3) Is consistent with the particular conservation program goals and objectives for which the program agreement or contract was entered into by the Department and the program participant; and

(4) Incorporates, where appropriate, low-cost alternatives that would address the resource issues and meet the objectives of both the program and program participants for which assistance is provided.

(d) Technical service providers, including entities and public agencies, must assume all legal responsibility for the technical services provided. Technical service providers, including entities and public agencies, must indemnify and hold the Department and the program participant harmless for any costs, damages, claims, liabilities, and judgments arising from past, present, and future negligent or wrongful acts or omissions of the technical service provider in connection with the technical service provided.

(e) The Department will not be in breach of any program contract or agreement if it fails to implement conservation plans or practices or make payment for conservation plans or practices resulting from technical services that do not meet USDA standards and specifications or are not consistent with program requirements.

(f) The program participant is responsible for complying with the terms and conditions of the program contract or agreement, which includes meeting USDA technical standards and specifications for any technical services procured by the participant or obtained in accordance with this part.

(g) The technical service provider shall report in the NRCS conservation accomplishment tracking system the appropriate data elements associated with the technical services provided to the Department or program participant.

§ 652.5 Program participant acquisition of technical services.

(a) Program participants may obtain technical assistance directly from the Department or from a certified technical service provider.

(b) To acquire technical assistance directly from the Department, program participants should contact their local USDA Service Center.

(c) To acquire technical services from a technical service provider, program participants must:

(1) Comply with the program agreement when acquiring technical services; and

(2) Select a certified technical service provider from the approved list of technical service providers.

(d) To obtain payment for technical services, the program participant must submit to the Department an invoice, supporting documentation, and a request for payment. The Department may pay a program participant for technical services provided by a technical service provider hired by the program participant through:

(1) A reimbursement payment made directly to the program participant; or

(2) Upon receipt of an assignment of payment from the program participant, a payment made directly to the technical service provider.

(e) The Department will identify in the particular program contract or agreement the payment provisions for technical service providers hired directly by the program participant.

(f) Unless authorized under paragraph (g) of this section, the program participant must enter into a program contract or agreement with the Department prior to acquisition of technical services by a technical service provider.

(g) A program participant may be reimbursed for technical service provider costs incurred prior to entering into a program contract or agreement as long as the individual meets the eligibility requirements for participating in the program. These costs include program related activities that need to be accomplished prior to entering into a program contract or agreement as well as the development of a conservation plan that is subsequently incorporated into the program contract or agreement. To be reimbursed for these technical service provider costs, the program participant must:

(1) Utilize the services of a certified technical service provider from the NRCS approved list of technical service providers; and

(2) Provide to NRCS invoice and related documentation of the technical services provided.

(h) Program participants must authorize in writing to the Department the disclosure of their records on file with the Department that they wish to make available to specific technical service providers.

(i) Payments for technical services will only be made one time for the same technical service provided unless, as determined by the Department, the emergence of new technologies or major changes in the participant's farming or ranching operations necessitate the need for additional technical services.

§ 652.6 Department delivery of technical services.

(a) The Department may procure the services of certified technical service providers through a contract or a contribution agreement to assist the Department in providing technical services necessary to develop and implement the conservation programs subject to this part. The Department shall only enter into a contribution agreement with a certified technical service provider if the certified

technical service provider contributes at least 50 percent of the technical services needed to accomplish the goals of the project under which the contribution agreement is entered. The Chief may establish minimum contribution rates or limit the utilization of contribution agreements.

(b) The Department may also enter into a cooperative agreement after competition as specified by part 3015 of this title if the principal purpose of the cooperative agreement is to transfer a thing of value to carry out a public purpose of support or stimulation authorized by law. The Chief or the Administrator, Farm Service Agency (FSA) may limit the utilization of cooperative agreements by NRCS or FSA, respectively. Only the Chief, NRCS or the Administrator, FSA may make a determination that competition is not deemed appropriate for a particular transaction and such determination shall only be based where a non-competitive award is in the best interest of the Government and necessary to the accomplishment of the goals of the program.

(c) A certified technical service provider, or an individual providing technical services under the auspices of a technical service provider's certification, shall not be eligible to receive payment under a program contract or agreement for technical services provided directly to a program participant if that technical service provider has entered into a contract, cooperative agreement, or contribution agreement with NRCS to provide technical services to that program participant.

(d) The Department will, to the extent practicable, ensure that the amounts paid for technical service under this part are consistent across conservation program areas, unless specific conservation program requirements include additional tasks.

§ 652.7 Quality assurance.

(a) NRCS will review, in consultation with the Farm Service Agency, as appropriate, the quality of the technical services provided by technical service providers. As a requirement of certification, technical service providers will be required to develop and maintain documentation in accordance with Departmental manuals, handbooks, and technical guidance for the technical services provided, and furnish this documentation to NRCS and the program participant when the particular technical service is completed. NRCS may utilize information obtained through its quality assurance process, documentation submitted by the technical service provider, and other relevant information in determining how to improve the quality of technical service, as well as determining whether to decertify a technical service provider under subpart C of this part.

(b) Upon discovery of a deficiency in the provision of technical service through its quality assurance process or other means, NRCS will, to the greatest extent practicable, send a notice to the technical service provider detailing the deficiency and requesting remedial action by the technical service provider. Failure by the technical service provider to promptly remedy the deficiency, or the occurrence of repeated deficiencies in providing technical services, may trigger the decertification process set forth in subpart C of this part. A failure by NRCS to notice any deficiency does not affect any action under the decertification process. Technical service providers are solely responsible for providing technical services that meet all NRCS standards and specifications.

Subpart B—Certification

§ 652.21 Certification criteria and requirements.

(a) To qualify for certification an individual must:

(1) Have the technical training, education, or experience to perform the level of technical assistance for which certification is sought;

(2) Meet any applicable licensing or similar qualification standards established by State law;

(3) Demonstrate, through documentation of training or experience, familiarity with NRCS guidelines, criteria, standards, and specifications as set forth in the applicable NRCS manuals, handbooks, field office technical guides, and supplements thereto for the planning and applying of specific conservation practices and management systems for which certification is sought; and

(4) Not be decertified in any State under subpart C of this part at the time of application for certification.

(b) To qualify for certification an entity or public agency must have a certified individual providing, in accordance with this part, technical services on its behalf.

(c) A technical service provider, as part of the certification by NRCS, must enter into a Certification Agreement with NRCS specifying the terms and conditions of the certification, including adherence to the requirements of this part, and acknowledging that failure to meet these requirements may result in ineligibility to receive payments from the Department, either directly or through the program participant, for the technical services provided or may result in decertification.

(d) NRCS certification shall be in effect for three years unless the technical service provider is decertified in accordance with subpart C of this part. NRCS certifications expire at the end of three years unless they are renewed in accordance with § 652.25.

(e) NRCS may, pursuant to 31 U.S.C. 9701, establish and collect fees for the certification of technical service providers.

(f) An individual, private-sector entity, or public agency is conditionally certified provided they had entered into a contract, cooperative agreement, or contribution agreement with the Department prior to November 21, 2002 to provide technical services and they submit an Application for Certification by March 1, 2003. An individual, private-sector entity, or public agency with conditional certification status under this paragraph may continue to provide technical services in accordance with the terms and conditions of the above-described contract, cooperative agreement, or contribution agreement. Conditional certification shall expire either by the date NRCS and the individual, private-sector entity, or public agency enter into a Certification Agreement, as described in § 652.22(c)(1) or September 30, 2003, whichever is earlier.

(g) An individual is conditionally certified if the individual was certified under NRCS policy in effect prior to November 21, 2002 and submits an Application for Certification by March 1, 2003. An individual with conditional certification status under this paragraph may continue to provide technical services to the Department and to program participants in accordance with the above-described prior certification. Conditional certification shall expire either by the date NRCS and the individual enter into a Certification Agreement, as described in § 652.22(c)(1) or September 30, 2003, whichever is earlier.

§ 652.22 Certification process for individuals.

(a) In order to be considered for certification as a technical service provider, an individual must:

(1) Submit an Application for Certification to NRCS in accordance with this section;

(2) Request certification through a recommending organization pursuant to § 652.25; or

(3) Request certification through an application submitted by a private-

sector entity or public agency pursuant to § 652.23 or § 652.24 as appropriate.

(b) The application must contain the documentation demonstrating that the individual meets all requirements of paragraph (a) of § 652.21.

(c) NRCS will review within 60 days the application submitted by an individual under paragraph (a)(1) of this section and determine whether the applicant meets the requirements set forth in paragraph (a) of § 652.21. If all requirements are met, NRCS will:

(1) Enter into a Certification Agreement and certify the applicant as qualified to provide technical services for a specific category or categories of technical service;

(2) Place the applicant on the list of approved technical service providers when certified; and

(3) Make available to the public the list of approved technical service providers by category of technical services.

(d) NRCS may decertify an individual in accordance with the decertification process set forth in subpart C of this part.

§ 652.23 Certification process for private-sector entities.

(a) A private sector entity that applies for certification must identify, and provide supporting documentation, that an individual, or individuals, authorized to act on its behalf:

(1) Has been certified as an individual in accordance with § 652.22; or

(2) Seeks certification as an individual as part of the private-sector entity's certification and ensures that the requirements set forth in § 652.21(a) are contained within the private-sector entity's application to support such certification.

(b) NRCS will determine whether the individual(s) identified in the private-sector entity's application meets the certification standards set forth in § 652.22 for the specific services the entity wishes to provide.

(c) NRCS will review within 60 days the application submitted by an entity. If NRCS determines that all requirements for the private-sector entity and the identified individual(s) are met, NRCS will complete the actions described in paragraphs (c)(1) through (c)(3) of § 652.22. The Certification Agreement entered into with the private-sector entity shall:

(1) Identify the certified individuals who are authorized to perform technical services on behalf of and under the auspices of the entity's certification;

(2) Require that the entity have, at all times, an individual who is a certified technical service provider authorized to act on the entity's behalf;

(3) Require that the entity promptly provide to NRCS for NRCS approval an amended Certification Agreement when the list of certified individuals performing technical services under its auspices changes;

(4) Require that any work performed by non-certified individuals be warranted by a certified individual who is authorized to act on the entity's behalf; and

(5) Require that the entity assume liability for the quality of work performed by any individual working under the auspices of its certification.

(d) NRCS may, in accordance with the decertification process set forth in this part, decertify the private sector entity, the certified individual(s) acting under the auspices of its certification, or both the private sector entity and the certified individual(s) acting under the auspices of its certification.

§ 652.24 Certification process for public agencies.

(a) A public agency that applies for certification must identify, and provide supporting documentation, that an individual or individuals authorized to act on its behalf:

(1) Has been certified as an individual in accordance with § 652.22; or

(2) Seeks certification as an individual as part of the public agency's certification and sufficient information as set forth in § 652.21(a) is contained within the public agency's application to support such certification.

(b) NRCS shall determine whether the individual identified in the public agency's application meets the certification standards set forth in § 652.22.

(c) NRCS will review within 60 days the application submitted by a public agency. If NRCS determines that all requirements for the public agency and the identified individual(s) are met, NRCS will perform the actions described in paragraph (c)(1) through (c)(3) of § 652.22. The Certification Agreement entered into with the public agency shall:

(1) Identify the certified individuals that are authorized to perform technical services on behalf of and under the auspices of the public agency's certification;

(2) Require that the public agency have, at all times, an individual that is a certified technical service provider and is an authorized official of the public agency;

(3) Require that the public agency promptly provide to NRCS for NRCS approval an amended Certification Agreement when the list of certified individuals performing technical services under its auspices changes;

(4) Require that any work performed by non-certified individuals be warranted by a certified individual that is authorized to act on the public agency's behalf;

(5) Require that the public agency assume liability for the quality of work performed by any individual working under the auspices of its certification; and

(6) Prohibit any individual who provides technical services under the auspices of the public agency's certification from providing services to program participants and the Department as an individual or part of a private-sector entity.

(d) NRCS may, in accordance with the decertification process set forth in subpart C of this part, decertify the public agency, the certified individual(s) acting under its auspices, or both the public agency and the certified individual(s) acting under its auspices.

§ 652.25 Alternative application process for individual certification.

(a) NRCS may enter into an agreement, including a memorandum of understanding or other appropriate instrument, with a recommending organization that NRCS determines has an adequate accreditation program in place to train, test, and evaluate candidates for competency in a particular area or areas of technical service delivery and whose accreditation program NRCS determines meets the certification criteria as set forth for the technical services to be provided.

(b) Recommending organizations will, pursuant to an agreement entered into with NRCS:

(1) Train, test, and evaluate candidates for competency in the area of technical service delivery;

(2) Recommend to the NRCS official individuals who it determines meet the NRCS certification requirements of § 652.21(a) for providing specific categories of technical services;

(3) Inform the recommended individuals that they must meet the requirements of this part, including entering into a Certification Agreement with NRCS, in order to provide technical services under this part;

(4) Reassess individuals that request renewal of their certification pursuant to § 652.26 through the recommendation of the organization; and

(5) Notify NRCS of any concerns or problems that may affect the organization's recommendation concerning the individual's

certification, recertification, certification renewal, or technical service delivery.

(c) Pursuant to an agreement with NRCS, a recommending organization may provide to the appropriate NRCS official a current list of individuals identified by the recommending organization as meeting NRCS criteria as set forth in § 652.21(a) for specific categories of technical service and recommend that the NRCS official certify these individuals as technical service providers in accordance with this part.

(d) NRCS will make a determination within 60 days. If NRCS determines that all requirements for certification are met by the recommended individual(s), NRCS will perform the actions described in paragraphs (c)(1) through (c)(3) of § 652.22.

(e) NRCS may terminate an agreement with a recommending organization if concerns or problems with its accreditation program, its recommendations for certification, or other requirements under the agreement arise.

§ 652.26 Certification renewal.

(a) NRCS certifications are in effect for three years and automatically expire unless they are renewed for an additional three years in accordance with this section.

(b) A technical service provider may request renewal of an NRCS certification by:

(1) Submitting a complete certification renewal application to NRCS or through a private sector entity, a public agency, or a recommending organization to NRCS at least 60 days prior to expiration of the current certification;

(2) Providing verification on the renewal form that the requirements of this part are met; and

(3) Agreeing to abide by the terms and conditions of a Certification Agreement.

(c) All certification renewals are in effect for three years and may be renewed for subsequent three-year periods in accordance with this section.

Subpart C—Decertification

§ 652.31 Policy.

In order to protect the public interest, it is the policy of NRCS to maintain certification of those technical service providers who act responsibly in the provision of technical service, including meeting NRCS standards and specifications when providing technical service to program participants. This section, which provides for the decertification of technical service providers, is an appropriate means to implement this policy.

§ 652.32 Causes for decertification.

A State Conservationist, in whose State a technical service provider is certified to provide technical service, may decertify the technical service provider, in accordance with these provisions, for the following reasons:

(a) Failure to meet NRCS standards and specifications in the provision of technical services rendering to the extent that the practice is ineffective or environmentally harmful;

(b) Violation of the terms of the Certification Agreement, including but not limited to, a demonstrated lack of understanding of, or an unwillingness or inability to implement, NRCS standards and specifications for a particular practice for which the technical service provider is certified, or the provision of technical services for which the technical service provider is not certified; and

(c) Any other cause of a serious or compelling nature as determined by NRCS that demonstrates the technical service provider's inability to fulfill the terms of the Certification Agreement in providing technical service.

§ 652.33 Notice of proposed decertification.

The State Conservationist will send by certified mail, return receipt requested, to the technical service provider proposed for decertification a written Notice of Proposed Decertification, which will contain the cause(s) for decertification, as well as any documentation supporting decertification. In cases where a private sector entity or public agency is being notified of a proposed decertification, any certified individuals working under the auspices of such organization who are also being considered for decertification will receive a separate Notice of Decertification and will be afforded separate appeal rights following the process set forth below.

§ 652.34 Opportunity to contest decertification.

To contest decertification, the technical service provider must submit in writing to the State Conservationist, within 20 calendar days from the date of receipt of the Notice of Proposed Decertification, the reasons why the State Conservationist should not decertify, including any mitigating factors as well as any supporting documentation.

§ 652.35 State Conservationist decision.

Within 30 calendar days from the date of the notice of proposed decertification, the State Conservationist will issue a written determination. If the State Conservationist decides to decertify, the decision will set forth the reasons for decertification, the period of decertification, and the scope of decertification. If the State Conservationist decides not to decertify the technical service provider, the technical service provider will be given written notice of that determination. The decertification determination will be based on an administrative record, which will be comprised of: The Notice of Proposed Decertification and supporting documents, and, if submitted, the technical service provider's written response and supporting documentation. Both a copy of the decision and administrative record will be sent promptly by certified mail, return receipt requested, to the technical service provider.

§ 652.36 Appeals of decertification decisions.

(a) Within 20 calendar days from the date of receipt of the State Conservationist's decertification determination, the technical service provider may appeal, in writing, to the Chief of NRCS. The written appeal must state the reasons for appeal and any arguments in support of those reasons. If the technical service provider fails to appeal, the decision of the State Conservationist is final.

(b) *Final decision.* Within 30 calendar days of receipt of the technical service provider's written appeal, the Chief or his designee, will make a final determination, in writing, based upon the administrative record and any additional information submitted to the Chief by the technical service provider. The decision of the Chief, or his designee, is final and not subject to further administrative review. The Chief's determination will include the reasons for decertification, the period of decertification, and the scope of decertification.

§ 652.37 Period of decertification.

The period of decertification will not exceed three years in duration and will be decided by the decertifying official, either the State Conservationist or Chief, as applicable, based upon their weighing of all relevant facts and the seriousness of the reasons for decertification, mitigating factors, if any, and the following general guidelines:

(a) For failures in the provision of technical service for which there are no mitigating factors, *e.g.*, no remedial action by the technical service provider, a maximum period of three years decertification;

(b) For repeated failures in the provision of technical assistance for

which there are mitigating factors, *e.g.*, the technical service provider has taken remedial action to the satisfaction of NRCS, a maximum period of one to two years decertification; and

(c) For a violation of certification agreement terms, e.g, failure to possess technical competency for a listed practice, a period of one year or less, if the technical service provider can master such competency within a year period.

§ 652.38 Scope of decertification.

(a) When the technical service provider is a private sector entity or public agency, the decertifying official may decertify the entire organization, including all the individuals identified as authorized to provide technical services under the auspices of such organization. The decertifying official may also limit the scope of decertification, for example, to one or more specifically named individuals identified as authorized to provide technical services under the organization's auspices or to an organizational element of such private sector entity or public agency. The scope of decertification will be set forth in the decertification determination and will be based upon the facts of each decertification action, including whether actions of particular individuals can be imputed to the larger organization.

(b) In cases where specific individuals are decertified only, an entity or public agency must promptly file an amended Certification Agreement removing the decertified individual(s) from the Certification Agreement. In addition, the entity or public agency must demonstrate, to the satisfaction of the State Conservationist, that the entity or public agency has taken affirmative steps to ensure that the circumstances resulting in decertification have been addressed.

§ 652.39 Mitigating factors.

In considering whether to decertify, the period of decertification, and scope of decertification, the deciding official will take into consideration any mitigating factors. Examples of mitigating factors include, but are not limited to the following:

(a) The technical service provider worked, in a timely manner, to correct any deficiencies in the provision of technical service;

(b) The technical service provider took the initiative to bring any deficiency in the provision of their technical services to the attention of NRCS and sought NRCS advice to remediate the situation; and

(c) The technical service provider took affirmative steps to prevent any failures in the provision of technical services from occurring in the future.

§ 652.40 Effect of decertification.

(a) The Department will not make payment under a program contract for the technical services of a decertified technical service provider that were provided during the period of decertification. Likewise, NRCS will not procure the services of a decertified technical service provider during the period of decertification.

(b) *National decertification list.* NRCS will maintain a list of decertified technical service providers. NRCS will remove decertified providers from the list of certified providers. Program participants must not knowingly hire a decertified technical service provider. It is the program participant's responsibility to check the decertified list before hiring a technical service provider. Decertification of a technical service provider in one State decertifies the technical service provider from providing technical services under current programs in all States, the Caribbean Area, and the Pacific Basin Area.

§ 652.41 Effect of filing deadlines.

A technical service provider's failure to meet the filing deadlines under this subpart will result in the forfeiture of appeal rights. All filings must be received by NRCS no later than the close of business (5 p.m.) the last day of the filing period.

§ 652.42 Recertification.

A decertified technical service provider may apply to be re-certified under the certification provisions of this part after the period of decertification has expired. A technical service provider may not utilize the certification renewal process in an attempt to be recertified after being decertified.

Signed in Washington, DC, on November 7, 2002.

Bruce I. Knight,

Chief, Natural Resources Conservation Service.

[FR Doc. 02–29301 Filed 11–20–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV02–905–5 FIR]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule limiting 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 continuing in effect the weekly percentages established 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.

EFFECTIVE DATE: December 23, 2002.

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.''

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

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

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

This rule limits the volume of sizes 48 and 56 red seedless grapefruit shipped during the first 22 weeks of the 2002–03 season by continuing in effect the weekly percentages established 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.

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 continuing in effect the weekly percentages established 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 § 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 (1 3/5 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. The area received normal to above normal rainfall during the months of June, July, August, and September. However, it is unclear how this will affect the sizing of the crop. In previous seasons, when insufficient rainfall was followed by normal rainfall, a large volume of small-sized red seedless grapefruit was produced.

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 current 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) projected that over 32 weeks worth of red grapefruit juice would remain in inventory at the start of the season. 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. Complete data for the 2001–02 season is not yet available. 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 was 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 issued in October. Further, the first reports on how the crop was sizing were not available until after September. Consequently, the Committee believed it was best to set regulation at these levels, and then relax the percentages later in the season if conditions warrant. The Committee met again on September 10, 2002, and agreed to maintain the percentages as established.

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 were set high at 45 percent because it was anticipated that only a limited volume would be 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 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 regard 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 indicates 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 began the third Monday in September, September 16, 2002. Each regulation week begins Monday at 12:00 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.

Final Regulatory Flexibility Analysis

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

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

There are approximately 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 continuing in effect the weekly percentages established 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 helps 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.

An interim final rule concerning this action was published in the **Federal Register** on September 10, 2002. Copies of the rule were mailed by the Committee's staff to all Committee members and grapefruit handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register and USDA. That rule provided for a 30-day comment period, which ended October 10, 2002. No comments were received.

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

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (67 FR 57319, September 10, 2002) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 905

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

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

Accordingly, the interim final rule amending 7 CFR part 905 which was published at 67 FR 57319, September 10, 2002, is adopted as a final rule without change.

Dated: November 13, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–29533 Filed 11–20–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV02–920–3 FIR]

Kiwifruit Grown in California; Relaxation of Pack and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule which revised pack and container requirements prescribed under the California kiwifruit marketing order (order). The order regulates the handling of kiwifruit grown in California and is administered locally by the Kiwifruit Administrative Committee (Committee). This rule continues to allow handlers to pack more individual pieces of fruit per 8-pound sample for three size designations and one less piece of fruit per 8-pound sample for one size designation. This rule also continues in effect revisions to lot stamping requirements for plastic containers, suspension of the standard packaging requirement for volume filled containers of kiwifruit designated by weight for the 2002–03 season, and removal of obsolete language from the text of the regulation. These changes were unanimously recommended by the Committee and are expected to help handlers compete more effectively in the marketplace, better meet the needs of buyers, and to improve grower returns.

EFFECTIVE DATE: December 23, 2002.

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 920, as amended (7 CFR part 920), regulating the handling of kiwifruit grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

This rule continues in effect container and pack requirements currently prescribed for California kiwifruit under the order. This rule continues to allow handlers to pack more individual pieces of fruit per 8-pound sample for three size designations and one less piece of fruit per 8-pound sample for one size designation. This rule continues in effect revisions to lot stamping

requirements for plastic containers, suspension of the standard packaging requirement for volume filled containers of kiwifruit designated by weight for the 2002–03 season, and removal of obsolete language from the text of the regulation. These changes were unanimously recommended by the Committee and are expected to help handlers compete more effectively in the marketplace, better meet the needs of buyers, and to improve grower returns. The Committee unanimously recommended these changes at its April 9, 2002, meeting.

Numerical Count Size Designations

Under the terms of the order, fresh market shipments of kiwifruit grown in California are required to be inspected and meet grade, size, maturity, pack, and container requirements.

Section 920.52 authorizes the establishment of pack requirements. Section 920.302(a)(4) of the order's administrative rules and regulations outlines pack requirements for fresh shipments of California kiwifruit.

Section 920.302(a)(4)(iii) establishes a maximum number of fruit per 8-pound sample for each numerical count size designation for fruit packed in bags, volume filled, or bulk containers.

The amount of kiwifruit supplied to the domestic market by California handlers has declined 40 percent since the 1992–93 season, while imports from Europe have increased 1,409 percent. During the 2000–01 season approximately 3.2 million tray equivalents were imported from Europe. Imports from Europe are in direct competition with California kiwifruit. Additionally, grower prices have steadily declined in spite of a continuous increase in the U.S. per capita consumption of kiwifruit. When the order was implemented in 1984, the average Free-on-Board (FOB) value was $1.14 per pound. A recent review of FOB values showed that the average FOB value for the 1992–93 season through the 1999–2000 season was $0.56 per pound, a decline of $0.58 per pound.

As previously mentioned, the rules and regulations specify a maximum number of fruit per 8-pound sample for each numerical count size designation for kiwifruit packed in bags, volume filled, or bulk containers. California and imported fruit size designations by weight have differed since the implementation of the order. In 1998, the Committee addressed these differences by revising the numerical count per size designation specified in § 920.302(a)(4)(iv) of the order's administrative rules and regulations. An interim final rule published in the **Federal Register** on September 3, 1998 (63 FR 46861), increased the number of fruit that could be packed per 8-pound samples of size designations 30 through 42. A final rule concerning this matter was published in the **Federal Register** on July 29, 1999 (64 FR 41010).

Buyers generally prefer to purchase containers with a greater number of pieces of fruit in the box. Therefore, at its September 19, 2001, meeting, the Committee again addressed the differences in size designations between California kiwifruit and imported kiwifruit and unanimously recommended relaxing pack requirements under § 920.302(a)(iii) to permit handlers to pack more individual pieces of fruit in an 8-pound sample for various sizes.

The Committee unanimously recommended increasing the maximum number of fruit per 8-pound sample for sizes 42 through 25, eliminating size 21, and adding new sizes 20 and 23. These changes as shown in the following chart were implemented through an interim final rule (66 FR 1413, October 29, 2001) and a final rule (67 FR 11396, March 14, 2002). Changes are in bold.

Size designation	Maximum number of fruit per 8-pound sample
20	**27**
23	**29**
25	**32**
27/28	**35**
30	**38**
33	**43**
36	**45**
39	**49**
42	**54**
45	55

This chart is commonly referred to as the ''Size Designation Chart'' in the industry. Increasing the maximum number of fruit per 8-pound sample allowed some smaller-sized fruit to be packed into a larger-size category. This change allowed one more piece of fruit to be packed per 8-pound sample in sizes 42 and 39, three more pieces of fruit to be packed in size 36, seven more pieces of fruit to be packed in size 33, and five more pieces of fruit to be packed in sizes 27/28 and 25.

Increasing the maximum number of fruit permitted per 8-pound samples during the 2001–02 season enabled handlers to better meet the needs of buyers, because kiwifruit sells by the piece, and buyers desire as much fruit in each container as the container can comfortably hold.

The changes to the size designation chart helped reduce the sizing differences between California and imported kiwifruit during the 2001–02 season and allowed more fruit to be sold; however, handlers found that adjustments were still needed in some of the size designations to bring them closer to imported fruit size designations and to allow more accurate sorting into the size categories with handler sizing equipment. Sizing equipment had difficulty during the 2001–02 season distinguishing between sizes.

At its April 9, 2002, meeting, the Committee unanimously recommended and the USDA approved increasing the maximum number of fruit per 8-pound sample for sizes 23, 30, and 36, and reducing the maximum number of fruit per 8-pound sample for size 42 (67 FR 54327, August 22, 2002). The maximum number of fruit allowed in size 23 increased from 29 pieces of fruit per 8-pound sample to 30 pieces; in size 30, 39 pieces of fruit were allowed instead of 38 pieces; in size 36, 46 pieces of fruit were allowed instead of 45; and in size 42, the number of fruit allowed was decreased from 54 pieces of fruit per 8-pound sample to 53 pieces. These changes are shown in bold in the following chart.

Size designation	Maximum number of fruit per 8-pound sample	
20		27
23	29	**30**
25		32
27/28		35
30	38	**39**
33		43
36	45	**46**
39		49
42	54	**53**
45		55

The Committee believes that increasing the number of fruit permitted per 8-pound samples of sizes 23, 30, and 36, and decreasing the number of fruit per 8-pound sample for size 42 will result in more clearly defined size categories, and allow sizing equipment to more uniformly separate fruit of different sizes. Additionally, these adjustments will make the four size designations more similar to those for imported fruit. This action will not affect import requirements.

Lot Stamping Requirements

Section 920.52 of the order authorizes the establishment of container requirements. Section 920.55 of the order requires inspection and certification of kiwifruit, handled by handlers.

Prior to issuance of the interim final rule (67 FR 54327, August 22, 2002),

§ 920.303(d) required all exposed or outside containers of kiwifruit, but not less than 75 percent of the total containers on a pallet to be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector. It further required that individual consumer packages of kiwifruit placed directly on a pallet have all outside or exposed packages on a pallet plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector or have one inspection label placed on each side of the pallet. However, kiwifruit packed into individual consumer packages within a master container that are being directly loaded into a vehicle for export shipment under the supervision of the Federal or Federal-State Inspection Service (inspection service) were exempted, and continue to be exempted, from the lot stamp number requirement. The lot stamp number is used by the inspection service to identify and locate the corresponding inspector's working papers or notes. Working papers are the documents each inspector completes while performing an inspection on a lot of kiwifruit.

During the 2001 season, the kiwifruit industry began using plastic containers of various dimensions that can hold either bulk or tray packed kiwifruit. Some of these containers are reusable. Kiwifruit packed in reusable plastic containers (RPCs) is typically delivered to the retailer, where the containers are emptied and returned to a clearinghouse for cleaning and redistribution. As RPCs do not support markings that are permanently affixed to the container, all markings must be printed on cards, which slip into tabs on the front or sides of the containers. The cards are easily inserted and removed and contribute to the efficient use of the container. Because of their unique portability, the industry and inspection service are concerned that the cards on pallets of inspected containers could easily be moved to pallets of uninspected containers, enabling a handler to avoid inspection on a lot or lots of kiwifruit.

The industry experimented last season with round adhesive labels on RPCs. The lot stamp number was stamped on the round adhesive label and placed on the RPCs; however, manufacturers found that it was difficult to remove the adhesive label in the wash cycle. Additionally, handlers found that increased labor was needed to affix the adhesive labels and lot stamp number to the plastic containers. Handler members calculated that affixing adhesive labels to RPCs and one-way plastic containers cost the kiwifruit industry approximately $0.10 per container in materials and labor.

The inspection service and the Committee have presented their concerns to the manufacturers of these types of containers. One manufacturer has indicated a willingness to address the problem by offering an area on the principal display panel where the container markings will adhere to the plastic container. However, the manufacturer believes that this change may not be feasible in the near future.

To address the additional time and cost of affixing adhesive labels to containers, the Committee unanimously recommended and the USDA approved allowing handlers to use any method of positive lot identification (PLI) in accordance with Federal or Federal-State Inspection Service (inspection service) procedures (67 FR 54327, August 22, 2002). The Committee estimated that allowing handlers to use any method of PLI acceptable to the inspection service will reduce handler costs by $8,700, and will make handler operations more efficient. This action will not affect import requirements.

Standard Packaging for Volume Filled Containers Designated by Weight

Section 920.52 authorizes the establishment of pack requirements. Paragraphs (a)(1) and (3) of § 920.52 specify that the USDA may fix the weight of containers used in the handling of kiwifruit.

Section 920.302(a)(4) of the order's administrative rules and regulations outlines pack requirements for fresh shipments of California kiwifruit.

Prior to issuance of the interim final rule (67 FR 54327, August 22, 2002), § 920.302(a)(4)(v) required that all volume filled containers of kiwifruit designated by weight shall hold 22-pounds (10-kilograms) net weight of kiwifruit unless such containers hold less than 10-pounds or more than 35-pounds net weight of kiwifruit.

In a volume filled container, fairly uniform size kiwifruit are loosely packed without cell compartments, cardboard fillers or molded trays. Handlers may ship volume filled containers marked by either the appropriate count or net weight of kiwifruit. Handler shipments are based upon the preference of the receiver.

In 1994, the Committee unanimously recommended and USDA established standard packaging for certain volume filled containers designated by weight. At that time 52 percent of the total crop was packed into volume filled containers. The percentage of the total crop packed into volume filled containers increased to 85 percent during the 2001–02 season. In 2001–02, imports from the Northern hemisphere (Greece, Italy, and France) totaled approximately 17 percent of the U.S. market share. The majority of imported kiwifruit was shipped in 19.8-pound (9-kilogram) volume filled containers, whereas the order limited California handlers to 22-pound (10-kilogram) net weight volume filled containers. Retailers did not differentiate between an imported 19.8-pound (9-kilogram) and a 22-pound (10-kilogram) net weight volume filled container from California. Because buyers paid the same price for each container in 2001, the effect was not favorable for California handlers.

Additionally, prior to publication of the above-mentioned interim final rule, § 920.302(a)(4)(v) required handlers to utilize a standard packaging of 22-pounds (10-kilograms) net weight for volume filled containers that were over 10-pounds or less than 35-pounds net weight of kiwifruit. This restriction limited California kiwifruit handlers in meeting buyer's demands for other types of packaging.

At its April 9, 2002, meeting, the Committee unanimously recommended and the USDA approved suspending the standardized packaging requirement of 22-pounds (10-kilograms) net weight for volume filled containers for the 2002–03 season (67 FR 54327, August 22, 2002). The Committee expects that this suspension will enable California handlers to meet the packaging demands of retailers for volume filled containers, make California kiwifruit more competitive by allowing handlers to match other packaging styles, and reduce handlers' packaging costs. This change will not affect the import regulation.

Removal of Obsolete Language

Paragraphs (a) and (b) of § 920.60 authorize reporting requirements for kiwifruit handlers under the marketing order.

Section 920.160 requires each handler who ships kiwifruit to file a report of shipment and inventory data to the Committee no later than the fifth day of the month following such shipment. Handlers who ship less than 10,000 trays or the equivalent thereof, per fiscal year, and who have qualified with the Committee are only required to furnish such report of shipment and inventory data twice each year. Prior to publication of the interim final rule (67 FR 54327, August 22, 2002), paragraphs (a)(1) through (a)(6) of § 920.160 specified the types of information to be provided on the shipment report.

Paragraph (a)(4) required handlers to report inventory at the end of the reporting period by container; paragraph (a)(5) required handlers to report the amount of kiwifruit lost in repack; and paragraph (a)(6) required handlers to report the amount of fruit set aside for processing.

The Committee had not been collecting this information from handlers since the early 1990's. Therefore, the Committee unanimously recommended removing these obsolete reporting requirements from § 920.160 of the order's rules and regulations at the April 9, 2002, meeting.

Final Regulatory Flexibility Analysis

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

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

There are approximately 52 handlers of California kiwifruit subject to regulation under the marketing order and approximately 326 growers in the production area. Small agricultural service firms are defined as those whose annual receipts are less than $5,000,000, and small agricultural growers are defined by the Small Business Administration (13 CFR 121.201) as those whose annual receipts are less than $750,000. None of the 52 handlers subject to regulation have annual kiwifruit sales of at least $5,000,000. Two of the 326 growers subject to regulation have annual sales of at least $750,000. Therefore, a majority of the kiwifruit handlers and growers may be classified as small entities.

This rule continues to allow handlers to pack more individual pieces of fruit per 8-pound sample for three size designations and one less piece of fruit per 8-pound sample for one size designation. This rule continues in effect revisions to lot stamping requirements for plastic containers, suspension of the standard packaging requirement for volume filled containers of kiwifruit designated by weight for the 2002–03 season, and removal of obsolete language contained in paragraphs (a)(4), (a)(5), and (a)(6) of § 920.160 that has not been applicable for several years. This rule is expected to help handlers compete more effectively in the marketplace, better meet the needs of buyers, and to improve grower returns. Authority for these actions is provided in §§ 920.52, 920.55, and 920.60 of the order.

Numerical Count Size Designations

Under the terms of the order, fresh market shipments of kiwifruit grown in California are required to be inspected and meet grade, size, maturity, pack, and container requirements.

Section 920.302(a)(4) of the order's administrative rules and regulations outlines pack requirements for fresh shipments of California kiwifruit.

Section 920.302(a)(4)(iii) establishes a maximum number of fruit per 8-pound sample for each numerical count size designation for fruit packed in bags, volume filled, or bulk containers.

The amount of kiwifruit supplied to the domestic market by California handlers has declined 40 percent since the 1992–93 season, while imports from Europe have increased 1,409 percent. During the 2000–01 season approximately 3.2 million tray equivalents were imported from Europe. Imports from Europe are in direct competition with California kiwifruit. Additionally, grower prices have steadily declined in spite of a continuous increase in the U.S. per capita consumption of kiwifruit. When the order was implemented in 1984, the average Free-on-Board (FOB) value was $1.14 per pound. A recent review of FOB values showed that the average FOB value for the 1992–93 season through the 1999–2000 season was $0.56 per pound, a decline of $0.58 per pound.

As previously mentioned, the rules and regulations specify a maximum number of fruit per 8-pound sample for each numerical count size designation for kiwifruit packed in bags, volume filled, or bulk containers. California and imported fruit size designations by weight have differed since the implementation of the order. In 1998, the Committee addressed these differences by revising the numerical count per size designation specified in § 920.302(a)(iv) of the order's administrative rules and regulations. An interim final rule published in the **Federal Register** on September 3, 1998 (63 FR 46861), increased the number of fruit that could be packed per 8-pound samples of size designations 30 through 42. A final rule concerning this matter was published in the **Federal Register** on July 29, 1999 (64 FR 41010).

Buyers generally prefer to purchase containers with a greater number of pieces of fruit in the box. Therefore, at its September 19, 2001, meeting, the Committee again addressed the differences in size designations between California kiwifruit and imported kiwifruit and unanimously recommended relaxing pack requirements under § 920.302(a)(4)(iii) to permit handlers to pack more individual pieces of fruit in an 8-pound sample for various size designations, and, thus, better meet buyer preferences.

The Committee unanimously recommended increasing the maximum number of fruit per 8-pound sample for sizes 42 through 25, eliminating size 21, and adding new sizes 20 and 23. These changes, as shown in the following chart, were implemented through an interim final rule (66 FR 1413, October 29, 2001), and finalized by a final rule (67 FR 11396, March 14, 2002). Changes are shown in bold.

Size designation	Maximum number of fruit per 8-pound sample
20	**27**
23	**29**
25	**32**
27/28	**35**
30	**38**
33	**43**
36	**45**
39	**49**
42	**54**
45	55

This chart is commonly referred to as the ''Size Designation Chart'' in the industry. Increasing the maximum number of fruit per 8-pound sample allowed some smaller-sized fruit to be packed into a larger-size category. This change allowed one more piece of fruit to be packed per 8-pound sample in sizes 42 and 39, three more pieces of fruit to be packed in size 36, seven more pieces of fruit to be packed in size 33, and five more pieces of fruit to be packed in sizes 27/28 and 25.

Increasing the maximum number of fruit permitted per 8-pound samples during the 2001–02 season enabled handlers to better meet the needs of buyers, because kiwifruit sells by the piece, and buyers desire as much fruit in each container as the container can comfortably hold.

The changes to the size designation chart helped reduce the sizing differences between California and imported kiwifruit during the 2001–02 season and allowed more fruit to be sold. However, handlers found that adjustments were still needed in some of the size designations to bring them closer to imported fruit size designations and to allow more accurate sorting into the size categories with handler sizing equipment. Sizing

equipment had difficulty during the 2001–02 season distinguishing between sizes.

At its April 9, 2002, meeting, the Committee unanimously recommended and the USDA approved increasing the maximum number of fruit per 8-pound sample for sizes 23, 30, and 36, and reducing the maximum number of fruit per 8-pound sample for size 42 (67 FR 54327, August 22, 2002). Size 23 was increased from 29 pieces of fruit per 8-pound sample to 30 pieces, size 30 was increased from 38 pieces of fruit per 8-pound sample to 39 pieces of fruit, size 36 was increased from 45 pieces of fruit per 8-pound sample to 46 pieces, and size 42 was decreased from 54 pieces of fruit per 8-pound sample to 53 pieces. These changes are shown in the following chart in bold.

Size designation	Maximum number of fruit per 8-pound sample	
20		27
23	29	**30**
25		32
27/28		35
30	38	**39**
33		43
36	45	**46**
39		49
42	54	**53**
45		55

The Committee believes that increasing the number of fruit permitted per 8-pound samples of sizes 23, 30, and 36, and decreasing the number of fruit in 8-pound samples for size 42 will result in more clearly defined size categories and allow sizing equipment to more uniformly separate fruit of different sizes. Additionally, these adjustments will make the four size designations more similar to those for imported fruit. This action will not affect import requirements.

The Committee discussed alternatives to these changes. It considered suspending the size designation chart to lower inspection costs and allow handlers to pack similar to imports. However, it did not adopt this option because it concluded inspection costs will not be significantly lowered and because a recent grower survey showed that uniform sizing is one of the most important issues to California kiwifruit growers.

Another suggestion presented was to leave the size designation chart unchanged. The Committee did not adopt this suggestion because it believes that handlers will benefit from the revised numerical counts for sizes 23, 30, 36, and 42.

After considering these alternatives, the Committee recommended and the USDA approved relaxing the pack requirements for three sizes and tightening the pack requirements for one size (67 FR 54327, August 22, 2002). Small and large growers and handlers are expected to benefit from these changes. A reasonable crop estimate for the 2002–03 season is 7.5 million tray equivalents. The average FOB value for the 2001–02 season is estimated to be $3.50 per tray equivalent. The Committee estimated that the changes to the numerical count for size designations 23, 30, 36, and 42 will increase the average FOB value for the 2002–03 season to $3.75 per tray equivalent. It is anticipated that the FOB value for the 2002–03 season will increase by $1,875,000 ($3.75 − $3.50 × 7,500,000 tray equivalents). This change will not affect the minimum size and will not allow fruit currently considered ''undersized'' to be shipped. These changes will not affect import requirements. These changes are expected to help handlers compete more effectively in the marketplace, better meet the needs of buyers, and to improve grower returns.

Lot Stamping Requirements

Prior to issuance of the interim final rule (67 FR 54327, August 22, 2002), § 920.303(d) required all exposed or outside containers of kiwifruit, but not less than 75 percent of the total containers on a pallet, to be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector. It further required that individual consumer packages of kiwifruit placed directly on a pallet have all outside or exposed packages on a pallet plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector or have one inspection label placed on each side of the pallet. However, kiwifruit packed into individual consumer packages within a master container that are being directly loaded into a vehicle for export shipment under the supervision of the inspection service were exempted, and continue to be exempted, from the lot stamp number requirement. The lot stamp number is used by the inspection service to identify and locate the corresponding inspector's working papers or notes. Working papers are the documents each inspector completes while performing an inspection on a lot of kiwifruit and the information in the working papers is used by the inspector to determine the grade of the inspected lot.

During the 2001 season, the kiwifruit industry began using plastic containers of various dimensions that can hold either bulk or tray packed kiwifruit. Some of these containers are reusable. Kiwifruit packed in reusable plastic containers (RPCs) is typically delivered to the retailer where the containers are emptied and returned to a clearinghouse for cleaning and redistribution. As RPCs do not support markings that are permanently affixed to the container, all markings must be printed on cards, which slip into tabs on the front or sides of the containers. The cards are easily inserted and removed and further contribute to the efficient use of the container. Because of their unique portability, the industry and inspection service are concerned that the cards on pallets of inspected containers could easily be moved to pallets of uninspected containers, enabling a handler to avoid inspection on a lot or lots of kiwifruit.

The industry experimented last season with round adhesive labels on RPCs. The lot stamp number was stamped on the round adhesive label and placed on the RPCs; however, manufacturers found that it was difficult to remove the adhesive label in the wash cycle. Additionally, handlers found that increased labor was needed to affix the adhesive labels and lot stamp number to the plastic containers. Handler members calculated that affixing adhesive labels to RPCs and one-way plastic containers cost the kiwifruit industry approximately $0.10 per container in materials and labor. The inspection service and the Committee have presented their concerns to the manufacturers of these types of containers. One manufacturer has indicated a willingness to address the problem by offering an area on the principal display panel where the container markings will adhere to the plastic container. However, this change may not be feasible in the near future.

To address the additional time and cost of affixing adhesive labels to containers, the Committee unanimously recommended that handlers be allowed to use any method of PLI in accordance with Federal or Federal-State Inspection Service (inspection service) procedures. The Committee estimated that allowing handlers to use any method of PLI acceptable to the inspection service will reduce handler costs by $8,700, and will make handler operations more efficient. This action will not affect import requirements.

The Committee discussed alternatives to this change including not changing the lot stamp requirements for plastic containers. After considering this

alternative, the Committee recommended and the USDA approved relaxing the container marking requirements provided that plastic containers meet any approved method of PLI (67 FR 54327, August 22, 2002). The Committee believes that handlers and growers will benefit from such a relaxation. This change is expected to help handlers compete more effectively in the marketplace and to improve grower returns, and will not affect import requirements.

Standard Packaging for Volume Filled Containers Designated by Weight

Section 920.302(a)(4) of the order's administrative rules and regulations outlines pack requirements for fresh shipments of California kiwifruit.

Prior to issuance of the interim final rule (67 FR 54327, August 22, 2002), § 920.302(a)(4)(v) required all volume filled containers of kiwifruit designated by weight to hold 22-pounds (10-kilograms) net weight of kiwifruit unless such containers hold less than 10-pounds or more than 35-pounds net weight of kiwifruit.

In a volume filled container, fairly uniform size kiwifruit are loosely packed without cell compartments, cardboard fillers or molded trays. Handlers may ship volume filled containers marked by either the appropriate count or net weight of kiwifruit. Handler shipments are based upon the preference of the receiver.

In 1994, the Committee unanimously recommended, and USDA established standard packaging for certain volume filled containers packed by weight. At that time, 52 percent of the total crop was packed into volume filled containers. The percentage of the total crop packed into volume filled containers increased to 85 percent during the 2001–02 season. In 2001–02, imports from the Northern Hemisphere (Greece, Italy, and France) totaled approximately 17 percent of the U.S. market share. The majority of imported kiwifruit was shipped in 19.8-pound (9-kilogram) volume filled containers, whereas the order limits California handlers to 22-pound (10-kilogram) net weight volume filled containers. Retailers do not differentiate between an imported 19.8-pound (9-kilogram) and 22-pound (10-kilogram) net weight volume filled container from California. Because buyers pay the same price for each container, the effect is not favorable for California handlers.

Prior to publication of the interim final rule (67 FR 54237, August 22, 2002), § 920.302(a)(4)(v) required handlers to utilize a standard 22-pound (10-kilogram) net weight standard for packaging volume filled containers that were over 10-pounds or less than 35-pounds net weight. This restriction limited California kiwifruit handlers in meeting buyer's demands for other types of packaging.

Therefore, at its April 9, 2002, meeting, the Committee unanimously recommended and the USDA approved suspending the standard 22-pounds (10-kilograms) net weight packaging requirement for volume filled containers designated by weight for the 2002–03 season (67 FR 54327, August 22, 2002). The Committee expects that this suspension will enable California handlers to meet packaging demands of retailers for volume filled containers; make California kiwifruit more competitive with imports by allowing handlers to pack similar to imports; and reduce handlers' packaging costs. This change will not impact import requirements.

The Committee discussed alternatives at the April 9, 2002, meeting. One Committee member suggested leaving the standard packaging requirement unchanged. However, the Committee believes that relaxing the standard packaging requirement of 22-pounds (10-kilograms) net weight for volume filled containers designated by weight will allow handlers the flexibility to meet buyer container preferences and to increase sales.

The Committee considered other alternatives to revising packing and container requirements, but determined that these suggestions will not adequately address the industry problems.

Removal of Obsolete Language

Paragraphs (a) and (b) of § 920.60 authorize reporting requirements for kiwifruit handlers under the marketing order.

Section 920.160 requires each handler who ships kiwifruit to file a report of shipment and inventory data to the Committee no later than the fifth day of the month following such shipment. Handlers who ship less than 10,000 trays or the equivalent thereof, per fiscal year, and who have qualified with the Committee are only required to furnish such report of shipment and inventory data twice each year. Prior to publication of the interim final rule (67 FR 54327, August 22, 2002), paragraphs (a)(1) through (a)(6) of § 920.160 specified the types of information to be provided on the shipment report. Paragraph (a)(4) required handlers to report inventory at the end of the reporting period by container; paragraph (a)(5) required handlers to report the amount of kiwifruit lost in repack; and paragraph (a)(6) required handlers to report the amount of fruit set aside for processing.

The Committee had not been collecting this information from handlers since the early 1990's. Therefore, the Committee unanimously recommended removing these obsolete reporting requirements from § 920.160 of the order's rules and regulations at the April 9, 2002, meeting. It is estimated that the handler burden will not be impacted, as the current shipment report form approved by the Office of Management and Budget (OMB) under OMB No. 0581–0189 does not contain these data elements.

This rule will continue to relax pack and container requirements under the kiwifruit order. Accordingly, this action will not impose any additional reporting or recordkeeping requirements on either small or large kiwifruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors.

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

Further, the Committee's meeting was widely publicized throughout the kiwifruit industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the April 9, 2002, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

An interim final rule concerning this action was published in the **Federal Register** on August 22, 2002. Copies of the rule were mailed by the Committee Staff to all Committee members and kiwifruit handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register and USDA. The rule provided for a 60-day comment period which ended October 21, 2002. No comments were received.

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

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without

change, as published in the **Federal Register** (67 FR 54327, August 22, 2002) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 920 which was published at 67 FR 54327, August 22, 2002, is adopted as a final rule without change.

Dated: November 13, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–29530 Filed 11–20–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Docket No. FV02–984–1 IFR]

Walnuts Grown in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule decreases the assessment rate established for the Walnut Marketing Board (Board) for the 2002–03 and subsequent marketing years from $0.0124 to $0.0120 per kernelweight pound of assessable walnuts. The decreased assessment rate should generate sufficient income to meet the Board's 2002–03 anticipated expenses of $2,970,000. The lower assessment rate is due to a reduced budget that is about 5 percent less than last year's budget. The Board locally administers the marketing order (order) which regulates the handling of walnuts grown in California. Authorization to assess walnut handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The marketing year runs from August 1 through July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective November 22, 2002. Comments received by January 21, 2003, 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.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Toni Sasselli, Marketing Assistant, or Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

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 and Order No. 984 both as amended, (7 CFR part 984), regulating the handling of walnuts grown in California, 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. Under the marketing order now in effect, California walnut handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable walnuts beginning on August 1, 2002, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule decreases the assessment rate established for the Board for the 2002–03 and subsequent marketing years from $0.0124 to $0.0120 per kernelweight pound of assessable walnuts.

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

For the 2001–02 and subsequent marketing years, the Board recommended, and USDA approved, an assessment rate of $0.0124 per kernelweight pound of assessable walnuts that would continue in effect from year to year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other information available to USDA.

The Board met on September 13, 2002, and unanimously recommended 2002–03 expenditures of $2,970,000 and an assessment rate of $0.0120 per kernelweight pound of assessable walnuts. In comparison, last year's

budgeted expenditures were $3,124,800. The recommended assessment rate is $0.0004 lower than the $0.0124 rate currently in effect. The lower assessment rate is necessary because this year's crop is estimated by the California Agricultural Statistics Service (CASS) to be 275,000 tons (247,500,000 kernelweight pounds merchantable), and the budget is about 5 percent less than last year's budget. Thus, sufficient income should be generated at the lower rate for the Board to meet its anticipated expenses.

Major categories in the budget recommended by the Board for the 2002–03 year include $2,438,403 for program expenses, including marketing and production research projects, $333,100 for employee expenses such as administrative and office salaries, payroll tax and benefits, $80,500 for office expenses, $79,500 for other operating expenses, and $38,497 as a reserve for a contingency. Budgeted expenses for these items in 2001–02 were $2,566,569 for program expenses including marketing and production research projects, $313,200 for employee expenses, $130,600 for office expenses, $76,000 for other operating expenses, and $38,431 as a reserve for a contingency, respectively.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected shipments of California walnuts certified as merchantable. Merchantable shipments for the year are estimated at 247,500,000 kernelweight pounds which should provide $2,970,000 in assessment income and allow the Board to cover its expenses. Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within 5 months after the end of the year, according to § 984.69.

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

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

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 rule 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 5,800 producers of walnuts in the production area and about 43 handlers subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those having annual receipts of less than $5,000,000.

Currently industry information shows that 14 of the 43 handlers (32.5 percent) shipped over $5,000,000 of merchantable walnuts and could be considered large handlers by the Small Business Administration. Twenty-nine of the 43 walnut handlers (67.5 percent) shipped under $5,000,000 of merchantable walnuts and could be considered small handlers. An estimated 58 walnut producers, or about 1 percent of the 5,800 total producers, would be considered large producers with annual income over $750,000. Based on the foregoing, it can be concluded that the majority of California walnut handlers and producers may be classified as small entities.

This rule decreases the assessment rate established for the Board and collected from handlers for the 2002–03 and subsequent marketing years from $0.0124 to $0.0120 per kernelweight pound of assessable walnuts. The Board unanimously recommended 2002–03 expenditures of $2,970,000. The decreased assessment rate should generate sufficient income to meet the Board's 2002–03 anticipated expenses. The lower assessment rate is due to a reduced budget that is about 5 percent less than last year's budget.

Major categories in the budget recommended by the Board for the 2002–03 year include $2,438,403 for program expenses, including marketing and production research projects, $333,100 for employee expenses such as administrative and office salaries, payroll tax and benefits, $80,500 for office expenses, $79,500 for other operating expenses, and $38,497 as a reserve for a contingency. Budgeted expenses for these items in 2001–02 were $2,566,569 for program expenses including marketing and production research projects, $313,200 for employee expenses, $130,600 for office expenses, $76,000 for other operating expenses, and $38,431 as a reserve for a contingency, respectively.

Prior to arriving at this budget, the Board considered information from various sources, such as the Board's Budget and Personnel Committee, Research Committee, and Marketing Development Committee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the walnut industry. The recommended $0.0120 per kernelweight pound assessment rate was then determined by dividing the total recommended budget by the 247,500,000 kernelweight pound estimate of assessable walnuts for the year. Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within 5 months after the end of the year according to § 984.69.

A review of historical information and preliminary information pertaining to the current marketing year indicates that the grower price for 2002–03 could range between $0.50 and $0.70 per kernelweight pound of assessable walnuts. Therefore, the estimated assessment revenue for the 2002–03 year as a percentage of total grower revenue could range between 1.7 and 2.5 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Board's meeting was widely publicized throughout the walnut industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all

issues. Like all Board meetings, the September 13, 2002 meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large California walnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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

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

Pursuant to 5 U.S.C. 553, it is also found and determined 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) The 2002–03 marketing year began on August 1, 2002, and the order requires that the rate of assessment for each marketing year apply to all merchantable walnuts handled during the year; (2) this action decreases the assessment rate for merchantable California walnuts; (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 984

Walnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 984 is amended as follows:

PART 984–WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 984.347 is revised to read as follows:

§ 984.347 Assessment rate.

On and after August 1, 2002, an assessment rate of $0.0120 per kernelweight pound is established for California merchantable walnuts.

Dated: November 14, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–29601 Filed 11–20–02; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Docket No. FV02–993–4 FIR]

Dried Prunes Produced in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule which decreased the assessment rate established for the Prune Marketing Committee (Committee) under Marketing Order No. 993 for the 2002–03 and subsequent crop years from $2.80 to $2.60 per ton of salable dried prunes. The Committee locally administers the marketing order which regulates the handling of dried prunes grown in California. Authorization to assess dried prune handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The crop year begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: December 23, 2002.

FOR FURTHER INFORMATION CONTACT: Toni Sasselli, Program Assistant, or Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901; Fax (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes grown in California, 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.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California dried prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable dried prunes beginning on August 1, 2002, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues to decrease the assessment rate established for the Committee for the 2002–03 and subsequent crop years from $2.80 per ton to $2.60 per ton of salable dried prunes.

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

For the 2001–02 and subsequent crop years, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from crop year to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on June 27, 2002, and unanimously recommended 2002–03 expenditures of $386,880 and an assessment rate of $2.60 per ton of salable dried prunes. In comparison, last year's budgeted expenditures were $384,370. The assessment rate of $2.60 per ton is $0.20 lower than the rate currently in effect. The $0.20 per ton decrease in the assessment rate will allow the Committee to meet its 2002–03 expenses. The Committee was able to recommend a lower assessment rate this year because salable prune production this year is expected to be 148,800 tons, 16,750 tons higher than production last year. Although 2002–03 recommended expenses are slightly higher than 2001–02 expenses, an assessment rate of $2.60 per ton will provide sufficient funds for Committee operations this year.

The following table compares major budget expenditures recommended by the Committee on June 27, 2002, and major budget expenditures in the revised 2001–02 budget.

Budget expense categories	2001–02 (Revised)	2002–03
Total Personnel Salaries	$226,315	$232,575
Total Operating Expenses	123,700	136,850
Reserve for Contingencies	34,355	17,455

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by the estimated salable tons of California dried prunes. Production of dried prunes for the year is estimated at 148,800 salable tons, which should provide $386,880 in assessment income. Income derived from handler assessments will be adequate to cover budgeted expenses. Interest income also will be available if assessment income is reduced for some reason. The Committee is authorized to use excess assessment funds from the 2001–02 crop year (currently estimated at $76,878) for up to 5 months beyond the end of the crop year to meet 2001–02 crop year expenses. At the end of the 5 months, the Committee refunds or credits excess funds to handlers (§ 993.81(c)).

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

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

Final Regulatory Flexibility Analysis

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

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

There are approximately 1,205 producers of dried prunes in the production area and approximately 24 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

An updated prune industry profile shows that 9 of the 24 handlers (37.5%) shipped over $5,000,000 of dried prunes and could be considered large handlers by the Small Business Administration. Fifteen of the 24 handlers (62.5%) shipped under $5,000,000 of dried prunes and could be considered small handlers. An estimated 32 producers, or less than 3% of the 1,205 total producers, will be considered large growers with annual income over $500,000. The majority of handlers and producers of California dried prunes may be classified as small entities.

This rule continues to decrease the assessment rate established for the Committee and collected from handlers for the 2002–03 and subsequent crop years from $2.80 per ton to $2.60 per ton of salable dried prunes. The Committee unanimously recommended 2002–03 expenditures of $386,880 and an assessment rate of $2.60 per ton of salable dried prunes. The assessment rate is $0.20 lower than the previous rate. The quantity of assessable dried prunes for the 2002–03 crop year is now estimated at 148,800 salable tons. Thus, the $2.60 rate should provide $386,880 in assessment income and be adequate to meet this year's expenses. Interest income also will be available to cover budgeted expenses if the 2002–03 expected assessment income falls short.

The following table compares major budget expenditures recommended by the Committee on June 27, 2002, and major budget expenditures in the revised 2001–02 budget.

Major budget expense categories	2001–02 (Revised)	2002–03
Total Personnel Salaries	$226,315	$232,575
Total Operating Expenses	123,700	136,850

Major budget expense categories	2001–02 (Revised)	2002–03
Reserve for Contingencies	34,355	17,455

The Committee reviewed and unanimously recommended 2002–03 expenditures of $386,880. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Executive Subcommittee. An alternative to this action would be to continue with the $2.80 per ton assessment rate, but the anticipated larger crop, with an assessment rate of $2.80 per ton, would generate monies in excess of that needed to fund all the budget items. The assessment rate of $2.60 per ton of salable dried prunes was determined by dividing the total recommended budget by the estimated salable dried prunes. The Committee is authorized to use excess assessment funds from the 2001–02 crop year (currently estimated at $76,878) for up to 5 months beyond the end of the crop year to fund 2002–03 crop year expenses. At the end of the 5 months, the Committee refunds or credits excess funds to handlers (§ 993.81(c)). Anticipated assessment income and interest income during 2002–03 will be adequate to cover authorized expenses.

The grower price for the 2002–03 season is expected to average above the estimated 2001–02 average grower price of about $750 per salable ton of dried prunes. Based on estimated shipments of 148,800 salable tons, assessment revenue during the 2002–03 crop year is expected to be less than 1 percent of the total expected grower revenue.

This action continues to decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the California dried prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 27, 2002, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large California dried prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

An interim final rule concerning this action was published in the **Federal Register** on August 15, 2002 (67 FR 53293). Copies of that rule were also mailed or sent via facsimile to all prune handlers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register and USDA. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on October 15, 2002, and no comments were received.

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

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

List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and Recordkeeping requirements.

Accordingly, the interim final rule amending 7 CFR part 993 which was published at 67 FR 53293 on August 15, 2002, is adopted as a final rule without change.

Dated: November 13, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–29532 Filed 11–20–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1710

RIN 0572–AB65

Demand Side Management and Renewable Energy Systems

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) is removing its regulations which detail separate policies and requirements for loans for renewable energy systems and demand side management. Many of these requirements overlap provisions found elsewhere in part 1710. Others do not seem well suited for the smaller scale projects of this type that are becoming increasingly common in the industry. RUS believes that it is more appropriate to consider such small scale projects in this rapidly developing segment of the energy industry by proceeding on a case-by-case basis. By contrast, the balance of part 1710 affords a useful framework for considering utility-scale energy projects without regard to whether they are for demand side management or renewable resources.

EFFECTIVE DATES: November 21, 2002.

FOR FURTHER INFORMATION CONTACT: Georg A. Shultz, Chief, Energy Forecasting Branch, Electric Staff Division, Rural Utilities Service, U.S. Department of Agriculture, Stop 1569, 1400 Independence Ave., SW., Washington, DC 20250–1569. Telephone: (202) 720–1921. FAX: (202) 720–7491. E-mail: *gshultz@rus.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. See the final rule related notice entitled ''Department Programs and Activities Excluded from Executive Order 12372,'' (50 FR 47034) advising that RUS loans and loan guarantees were not covered by Executive Order 12372.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, 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, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)) administrative appeal procedures, if any are required, must be

exhausted before an action against the Department or its agencies.

Regulatory Flexibility Act Certification

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Rural Utilities Service is not required by 5 U.S.C. 551 *et seq.* or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance programs under No. 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325, telephone number (202) 512–1800.

Information Collection and Recordkeeping Requirements

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision of title II of the Unfunded Mandates Reform Act) 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 Unfunded Mandates Reform Act.

Background

The Rural Utilities Service (RUS) is removing from part 1710 of its regulations entitled ''General and Pre-Loan Policies and Procedures'' subpart H thereof, which separately treats demand side management and renewable energy systems. Subpart H has seldom been used. Since it was first promulgated in 1994, RUS has averaged less than one of these loans a year. More recently, changes in the energy industry and technological advances have produced increased interest in utilizing these approaches for smaller scaled projects and projects employing innovative technologies. However, subpart H with its requirements for such things as integrated resource plans (IRP's) and demand side management plans present formidable barriers for the development of smaller projects. Furthermore, the usefulness of such traditional analytical devices in today's radically changed energy industry has become questionable. In addition, projects of this sort often possess unique attributes that make the application of detailed regulations impractical and sometimes even counterproductive. For example, subpart H precludes the use of innovative technologies. See 7 CFR 1710.351(a) and 1710.353. For all of these reasons, RUS believes that subpart H has become unjustified and unnecessary as a result of changed circumstances and should be removed or substantially revised.

After considering the low volume of loan requests RUS receives annually for these loans, the disparate nature of the projects that can be characterized as demand side management or renewable energy systems, and the rapidly evolving nature of this industry, RUS has determined that the removal of subpart H is the better alternative. Accordingly, RUS will proceed case-by-case in considering requests for demand side management and renewable energy system loans.

RUS expects that utility scale projects will continue to conform to the remaining provisions of part 1710 establishing its general and pre-loan policies and procedures. RUS recognizes that the particular circumstances of an individual project may necessitate adjustments in the application or interpretation of its general polices and procedures to specific demand side management or renewable energy systems loans regardless of scale. The Administrator may, of course, waive or reduce any requirement imposed by part 1710 by resorting to the exception authority contained in the rule itself. See 7 CFR 1710.4. In light of their rarity so far, RUS anticipates that it may be necessary to interpret the application of part 1710 to utility scale demand side management and renewable energy system loans on a somewhat frequent basis at first. RUS will treat small-scale projects as pilot projects for which the remainder of part 1710 will serve merely as guidance. As used in this rule, ''small scale project'' refers to projects requesting loans less than $5 million or generating less than 10 MW (nameplate rating). ''Utility scale project'' refers to everything else.

As RUS acquires greater experience with loans for demand side management and renewable energy systems, it may reissue regulations on this subject in the event that the volume of loans requests or the number of recurring issues raised warrant it. Accordingly, subpart H is being reserved.

A proposed rule was issued April 25, 2001, at 66 FR 20759, inviting comments this action. The comment period for this proposed rule ended May 25, 2001. Only one comment was received. The Regulatory Flexibility Act Certification discussion has been modified in the Supplementary Information section of this final rule to respond to the comment. No changes where made to the text of the rule from that as proposed.

List of Subjects in 7 CFR Part 1710

Electric power, Electric utilities, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, RUS amends 7 CFR chapter XVII, part 1710, as follows:

PART 1710—GENERAL AND PRELOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

1. The authority citation for part 1710 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, and 6941 *et seq.*

Subpart H—Demand Side Management and Renewable Energy Systems

§§ 1710.350–1710.363 (Subpart H) [Removed and Reserved]

2. Remove and reserve subpart H.

Dated: November 13, 2002.

Hilda Gay Legg,

Administrator, Rural Utilities Service.

[FR Doc. 02–29598 Filed 11–20–02; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1710 and 1717

RIN 0572–AB68

Exceptions of RUS Operational Controls Under Section 306E of the RE Act

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: In an effort to streamline requirements of borrowers and make regulations simple and direct, the Rural Utilities Service (RUS) will eliminate regulations on Exceptions of RUS Operational Controls under Section 306E of the RE Act in its entirety. Because borrowers are now afforded the same exemptions of RUS operational controls by way of other provisions, RUS has determined that the regulation can now be removed from its regulations.

DATES: This rule will become effective on December 23, 2002.

FOR FURTHER INFORMATION CONTACT: Patrick R. Sarver, Management Analyst, Rural Utilities Service, Electric Program, Room 4024 South Building, Stop 1560, 1400 Independence Ave., SW., Washington, DC 20250–1560, Telephone: 202–690–2992, FAX: 202–690–0717, E-mail: *psarver@rus.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This 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).

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. See the final rule related notice titled ''Department Programs and Activities Excluded from Executive Order 12372'' (50 FR 47034) advising that RUS loans and loan guarantees from coverage were not covered by Executive Order 12372.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, 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, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)), administrative appeals procedures, if any are required, must be exhausted before and action against the Department or its agencies.

Regulatory Flexibility Act Certification

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Rural Utilities Service is not required by 5 U.S.C. 551 *et seq.* or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Information Collection and Recordkeeping Requirements

This rule contains no additional information collection or recordkeeping requirements under OMB control number 0572–0032 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision of title II of the Unfunded Mandates Reform Act) 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 Unfunded Mandates Reform Act.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402–9325, telephone number (202) 512–1800.

Background

On May 24, 2002, at 67 FR 101, RUS published a proposed rule, 7 CFR Part 1710 and 1717, Exceptions of RUS Operational Controls Under Section 306E of the RE Act, which proposed the elimination of 7 CFR 1710.7. RUS currently treats the general subject of operational controls for recipients of electric loans and guarantees in three separate places, namely in RUS loan documents, in 7 CFR part 1717, subpart M, and in 7 CFR 1710.7. In the interest of eliminating confusion and to continue in its ongoing program to streamline RUS regulations, RUS will eliminate 7 CFR 1710.7.

Written comments were received June 24, 2002, from Tex-LA Electric Cooperative of Texas, Inc., Northeast Texas Electric Cooperative, Inc, and Sam Rayburn G&T Electric Cooperative, Inc., on behalf of themselves and their respective member distribution cooperatives. The three cooperatives support the removal of 7 CFR 1710.7 and provided additional comments on regulations not covered in this rulemaking. Specifically the cooperatives ask that more precise reference be made throughout the regulations when the phrase ''other RUS regulations'' is used as reference. The three cooperatives also ask that RUS take the opportunity to correct a typographical error found in 7 CFR 1717.615 (f)(2). RUS agrees with the comments made by the three cooperatives that whenever possible, precise reference to other sections of the regulations should be made instead of a more general statement and will continue to make rules with clear reference to other sections of its regulations as appropriate. RUS will also take this opportunity to correct the typographical error that was identified.

In this rulemaking, as presented in the proposed rule, it appears that 7 CFR 1710.7 has become an anachronism because the subsequent promulgation of new loan documents and subpart M effectively conferred the benefits of 7 CFR 1710.7 to all borrowers. Borrowers who are relying on subpart M are encouraged to switch to the new forms of loan documents so that subpart M itself can eventually be removed at a later date once the universe of legacy borrowers has sufficiently contracted to the point that any remaining legacy borrowers could be dealt with either informally or on a case-by-case basis. RUS does not believe this action will diminish or abrogate any rights or privileges conferred upon 110 percent borrowers by section 306e of the RE Act, and no such consequences are intended.

List of Subjects

7 CFR Part 1710

Electric power, Electric utilities, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1717

Administrative practice and procedure, Electric power, Electric power rates, Electric utilities, Intergovernmental relations, Investments, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, chapter X of title 7 of the Code of Federal Regulations, RUS amends 7 CFR parts 1710 and 1717 as follows:

PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

1. The authority citation for part 1710 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

Subpart A—General

§ 1710.7 [Removed and Reserved]

2. Section 1710.7 is removed and reserved.

PART 1717—POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

3. The authority citation for part 1717 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

Subpart S—Lien Accommodations for Supplemental Financing Required by 7 CFR 1710.110

4. Section 1717.615(f)(2) is revised to read as follows:

§ 1717.615 Consolidations and Mergers.

* * * * *

(f) * * *

(2) A pro forma TIER of not less than 1.25 and a pro forma DSC of not less than 1.25 for each of the two preceding calendar years;

§ 1717.904 [Amended]

5. Section 1717.904 is amended by removing paragraphs (c) and (d) and redesignating paragraph (e) as paragraph (c).

Dated: November 13, 2002.

Hilda Gay Legg,

Administrator, Rural Utilities Service.

[FR Doc. 02–29597 Filed 11–20–02; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–ACE–7]

Modification of Class D Airspace; Knob Noster, Whiteman AFB, MO; Modification of Class E Airspace; Knob Noster, Whiteman AFB, MO; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the effective date of a final rule that was published in the **Federal Register** on Friday, October 25, 2002 (67 FR 65498). The rule modifies Class D and Class E airspace at Knob Noster, Whiteman AFB, MO.

EFFECTIVE DATE: January 23, 2003.

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

SUPPLEMENTARY INFORMATION:

Background

Federal Register Document 02–27176 published on Friday, October 25, 2002, (67 FR 65498) modifies Class D and Class E airspace at Knob Noster, Whiteman AFB, MO.

Correction of Publication

Accordingly, pursuant to the authority delegated to me, the effective date of the modification of Class D and Class E airspace, Knob Noster, Whiteman AFB, MO, as published in the **Federal Register** Friday, October 25, 2002, (67 FR 65498), (FR Doc. 02–27176), is corrected as follows:

§ 71.1 [Corrected]

On page 65498, Column 2, EFFECTIVE DATE paragraph, after EFFECTIVE DATE: Change ''0902 UTC, December 26, 2002.'' to read ''0901 UTC, January 23, 2003.''

Issued in Kansas City, MO, on October 29, 2002.

Herman J. Lyons, Jr.

Manager, Air Traffic Division, Central Region.

[FR Doc. 02–29457 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–ASO–26]

Amendment of Class E5 Airspace; Memphis, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E5 airspace at Memphis, TN. The Twinkletown Airport, within the Memphis, TN, Class E5 airspace area, has closed. Therefore, the Memphis, TN, Class E5 legal description must be amended to reflect the closure.

DATES: 0901 UTC, January 23, 2003.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

The Twinkletown Airport, within the Memphis, TN, Class E5 airspace area, has closed. Therefore, the Memphis, TN, Class E5 legal description must be amended to reflect the closure. This amendment will become effective on the date specified in the **DATE** section. Since this action has no impact on the users of the airspace in the vicinity of the Memphis, TN, Class E5 airspace area, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Designations for Class E are published in FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR part 71.1. The Class E designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class E5 airspace at Memphis, TN.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February

26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, incorporated by reference, Navigation (Air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

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

* * * * *

ASO TN E5 Memphis, TN [REVISED]

Memphis International Airport, TN
Lat. 35°02′33″ N, long. 89°58′36″ W
Olive Branch Airport
Lat. 34°58′44″ N, long. 89°47′13″ W
West Memphis Municipal Airport
Lat. 35°08′06″ N, long. 90°14′04″ W
General DeWitt Spain Airport
Lat. 35°12′02″ N, long. 90°03′14″ W
Elvis NDB
Lat. 35°03′41″ N, long. 90°04′18″ W
West Memphis NDB
Lat. 35°08′22″ N, long. 90°13′57″ W

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Memphis International Airport, and within 4 miles each side of the 179° bearing from the Elvis NDB extending from the 8-mile radius to 7 miles south of the NDB, and within a 7.5-mile radius of Olive Branch Airport, and within a 6.5-mile radius of West Memphis Municipal Airport, and within 2.5 miles each side of the 198° and 352° bearings from the West Memphis NDB extending from the 6.5-mile radius to 7.4 miles north and south of the NDB, and within a 6.4-mile radius of General DeWitt Spain Airport; excluding that airspace within the Milington, TN, Class E airspace area.

* * * * *

Issued in College Park, Georgia, on November 6, 2002.

Marvin Burnette,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–29456 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30339; Amdt. No. 3031]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective November 21, 2002. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 21, 2002.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The Flight Inspection Area Office which originated the SIAP; or,

4. The Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA—200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC on November 8, 2002.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, AND VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMS, MLS MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

...Effective November 28, 2002

Searcy, AR, Searcy Muni, RNAV (GPS) RWY 1, Orig
Searcy, AR, Searcy Muni, RNAV (GPS) RWY 19, Orig
Searcy, AR, Searcy Muni, NDB RWY 1, Amdt 4
Searcy, AR, Searcy Muni, GPS RWY 19, Amdt 1B, CANCELLED
Sacramento, CA, Sacramento Mather, ILS RWY 22L, Amdt 3
Jacksonville, FL, Cecil Field, ILS RWY 36R, Orig
Olney-Noble, IL, Olney-Noble, LOC RWY 11, Amdt 5
Batesville, MS, Panola County, LOC/DME RWY 19, Orig
Picayune, MS, Picayune Muni, NDB RWY 18, Orig
Picayune, MS, Picayune Muni, NDB RWY 36, Orig
Teterboro, NJ, Teterboro, VOR/DME–A, Amdt 2A
Teterboro, NJ, Teterboro, VOR/DME–B, Amdt 2B
Teterboro, NJ, Teterboro, FMS/ILS RWY 6, Orig–B, CANCELLED
Teterboro, NJ, Teterboro, NDB OR GPS RWY 6, Amdt 17C, CANCELLED
Teterboro, NJ, Teterboro, VOR/DME RWY 24, Amdt 8, CANCELLED
Teterboro, NJ, Teterboro, VOR/DME RNAV RWY 24, Orig–C, CANCELLED
Teterboro, NJ, Teterboro, GPW RWY 24, Orig–A, CANCELLED
Teterboro, NJ, Teterboro, RNAV (GPS) RWY 6, Orig
Clayton, NM, Clayton Municipal Airpark, NDB RWY 2, Orig
Clayton, NM, Clayton Municipal Airpark, NDB RWY 20, Orig
Dayton, OH, James M. Cox Dayton Intl, RNAV (GPS) RWY 18, Orig
Dayton, OH, James M. Cox Dayton Intl, RNAV (GPS) RWY 36, Orig
Portland, OR, Portland-Hillsboro, ILS RWY 12, Amdt 6
Meadville, PA, Port Meadville, VOR RWY 7, Amdt 7
Meadville, PA, Port Meadville, LOC RWY 25, Amdt 4
Meadville, PA, Port Meadville, GPS RWY 25, Orig-B, CANCELLED
Meadville, PA, Port Meadville, RNAV (GPS) RWY 7, Orig
Meadville, PA, Port Meadville, RNAV (GPS) RWY 25, Orig
Pottstown, PA, Pottstown-Limerick, LOC RWY 28, Amdt 2
Dallas-Fort Worth, TX, Dallas-Forth Worth International, ILS RWY 35C, Amdt 7
Dallas-Fort Worth, TX, Dallas-Forth Worth International, CONVERGING ILS RWY 35C, Amdt 5
Dallas-Fort Worth, TX, Dallas-Forth Worth International, RNAV (GPS) RWY 35C, Orig
Dallas-Fort Worth, TX, Dallas-Forth Worth International, GPS RWY 35C, Orig-A, CANCELLED

...Effective December 26, 2002

Grand Isle, LA, Grande Isle Seaplane Base, NDB OR GPS–B, Amdt 9A, CANCELLED

...Effective January 23, 2003

Cold Bay, AK, Cold Bay, RNAV (GPS) RWY 26, Orig
Needles, CA, Needles, VOR–A, Amdt 3
Needles, CA, Needles, RNAV (GPS) RWY 29, Orig
Rock Rapids, IA, Rock Rapid Muni, NDB RWY 16, Amdt 2, CANCELLED
Monroe, LA, Monroe Regional, RADAR–A, Amdt 6
Berrien Springs, MI, Andrews University Airpark, VOR–A, Orig
Brookfield, MO, General John J. Pershing Memorial, NDB OR GPS–A, Amdt 4, CANCELLED
Brookfield, MO, General John J. Pershing Memorial, NDB OR GPS RWY 35, Amdt 4, CANCELLED
Kansas City, MO, Kansas City Intl, ILS RWY 27, Amdt 1
St. Louis, MO, Lambert-St. Louis Intl, VOR/DME RWY 17, Orig-A, CANCELLED
Scottsbluff, NE, Western Nebraska Regional/William B. Heilig Field, LOC BC RWY 12, Amdt 8C, CANCELLED
Taos, NM, Taos Rgnl, NDB RWY 4, Amdt 1
Isabel, OK, McCurtain County Regional, NDB–A Orig
Dallas-Forth Worth, TX, Dallas Fort Worth International, ILS, RWY 36L, Amdt 1
Dallas-Forth Worth, TX, Dallas Fort Worth International, ILS Z RWY 36L, Orig, CANCELLED
Dallas-Forth Worth, TX, Dallas Fort Worth International, CONVERGING ILS RWY 36L, Amdt 1
Dallas-Forth Worth, TX, Dallas Fort Worth International, CONVERGING ILS Z RWY 36L, Orig, CANCELLED

[FR Doc. 02–29448 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Adminstration

14 CFR Part 97

[Docket No. 30340; Amdt. No. 3032]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective November 21, 2002. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 21, 2002.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.
4. The Office of Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designed FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC on November 8, 2002.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * Effective Upon Publication

FDC Date	State	City	Airport	FDC Number	Subject
10/24/02	AZ	TUCSON	TUCSON INTL	2/1218	RNAV (GPS) RWY 11L, ORIG
10/25/02	OH	RAVENNA	PORTAGE COUNTY	2/1248	VOR/DME RNAV OR GPS RWY 27, AMDT 2A
10/25/02	OK	HENRYETTA	HENRYETTA MUNI	2/1276	NDB RWY 35, AMDT 2B
10/25/02	OK	HENRYETTA	HENRYETTA MUNI	2/1277	GPS RWY 35, ORIG-A
10/28/02	NV	LAS VEGAS	MCCARRAN INTL	2/1342	RNAV (GPS) RWY 19L, ORIG
10/28/02	NV	LAS VEGAS	MCCARRAN INTL	2/1343	RNAV (GPS) RWY 19R, ORIG
10/29/02	IL	CHAMPAIGN-URBANA.	UNIVERSITY OF ILLINOIS-WILLARD	2/1359	ILS RWY 32L, AMDT 11A
10/29/02	IL	CHAMPAIGN-URBANA.	UNIVERSITY OF ILLINOIS-WILLARD	2/1360	LOC BC RWY 14R, AMDT 7B
10/29/02	IL	CHAMPAIGN-URBANA.	UNIVERSITY OF ILLINOIS-WILLARD	2/1361	VOR/DME OR GPS RWY 22R, AMDT 7B
10/29/02	IL	CHAMPAIGN-URBANA.	UNIVERSITY OF ILLINOIS-WILLARD	2/1362	VOR OR GPS RWY 4L, AMDT 11
10/29/02	IL	CHAMPAIGN-URBANA.	UNIVERSITY OF ILLINOIS-WILLARD	2/1363	NDB OR GPS RWY 32L, AMDT 10B
10/29/02	IL	CHAMPAIGN-URBANA.	UNIVERSITY OF ILLINOIS-WILLARD	2/1364	RADAR INSTRUMENT APPROACH MINIMUMS, AMDT 6
10/29/02	TX	MOUNT PLEASANT	MOUNT PLEASANT	2/1366	RNAV (GPS) RWY 35, ORIG
10/29/02	TX	MOUNT PLEASANT	MOUNT PLEASANT	2/1367	RNAV (GPS) RWY 17, ORIG
10/29/02	FL	MIAMI	KENDALL-TAMIAMI EXECUTIVE	2/1382	NDB OR GPS RWY 9R, AMDT 1A
10/29/02	WI	BELOIT	BELOIT	2/1386	VOR OR GPS-A, AMDT 5A
10/29/02	IL	FLORA	FLORA	2/1391	NDB RWY 21, AMDT 5
10/29/02	IL	FLORA	FLORA	2/1392	LOC/DME RWY 21, ORIG
10/30/02	NC	HICKORY	HICKORY REGIONAL	2/1428	VOR/DME RWY 24, ORIG
10/31/02	NY	NEWBURGH	STEWART INTL	2/1463	ILS RWY 27, ORIG-A
11/01/02	WY	LARAMIE	LARAMIE REGIONAL	2/1522	VOR/DME OR TACAN OR GPS RWY 30, AMDT 6A
11/01/02	WY	LARAMIE	LARAMIE REGIONAL	2/1523	VOR OR TACAN OR GPS RWY 13, AMDT 5A
11/04/02	MI	SAGINAW	SAGINAW COUNTY H.W. BROWN	2/1640	RNAV (GPS) RWY 27, ORIG

[FR Doc. 02–29447 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 021108271–2271–01]

RIN 0694–AC72

Corrections to Rule Entitled: Missile Technology Production Equipment and Facilities

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule; correction.

SUMMARY: On September 18, 2002, the Bureau of Industry and Security (BIS) published a final rule clarifying that all missile technology (MT) production equipment and facilities are controlled on the Commerce Control List. This rule corrects errors in the List of Items Controlled sections.

DATES: This rule is effective November 21, 2002.

FOR FURTHER INFORMATION CONTACT: Matthew Blaskovich in the Office of Exporter Services, Bureau of Industry and Security, at (202) 482–2440.

SUPPLEMENTARY INFORMATION: This document corrects two errors in the List of Items Controlled sections for Export Controlled Classification Numbers (ECCNs) 9B115 and 9B116, which were revised in a final rule that was published by the Bureau of Industry and Security (BIS) on September 18, 2002 (67 FR 58691).

The **SUPPLEMENTARY INFORMATION** section of the September 18, 2002 rule stated that BIS was revising the headings for ECCNs 9B115 and 9B116 and adding a List of Items Controlled section to those ECCNs to clarify that all missile technology production equipment and facilities are subject to the Export Administration Regulations (EAR) and controlled on the Commerce Control List (CCL). The September 18, 2002 rule inadvertently omitted ECCN 9A011 from the List of Items Controlled sections of ECCNs 9B115 and 9B116, although it appears in the headings of those ECCNs. This document corrects that oversight.

In addition, this rule corrects for an inadvertent omission by adding the

''Related Definitions'' paragraph for these respective ECCNs.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid Office of Management and Budget Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 45 minutes for a manual submission and 40 minutes for an electronic submission.

3. This rule does not contain policies with Federalism implications as this term is defined under E.O. 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Matthew Blaskovich, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044, or *mblaskov@bis.doc.gov.* Accordingly, in the final rule FR Doc. 02–23716 (Doc. 020830206–2206–01) published at 67 FR 58691, make the following corrections:

PART 774—[CORRECTED]

Supplement No. 1 to Part 774—[Corrected]

1. On page 58692, third column, in the List of Items Controlled for ECCN 9B115, the following paragraphs are corrected to read as follows:

9B115 Specially designed ''production equipment'' for the systems, sub-systems and components controlled by 9A004 to 9A009, 9A011, 9A101, 9A104 to 9A109, 9A111, 9A116 to 9A119.

* * * * *

List of Items Controlled

Unit: * * *.

Related Controls: Although items described in ECCNs 9A004 to 9A009, 9A011, 9A101, 9A104 to 9A109; 9A111, 9A116 to 9A119 are subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121), the ''production equipment'' controlled in this entry that is related to these items is subject to the export licensing authority of BIS.

Related Definitions: NA.

Items: The list of items controlled is contained in the ECCN heading.

2. On page 58692, third column, in the List of Items Controlled for ECCN 9B116, the following paragraphs are corrected to read as follows:

9B116 Specially designed ''production facilities'' for the systems, sub-systems, and components controlled by 9A004 to 9A009, 9A011, 9A101, 9A104 to 9A109, 9A111, 9A116 to 9A119.

* * * * *

List of Items Controlled

Unit: * * *.

Related Controls: Although items described in ECCNs 9A004 to 9A009, 9A011, 9A101, 9A104 to 9A109; 9A111, 9A116 to 9A119 are subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121), the ''production equipment'' controlled in this entry that is related to these items is subject to the export licensing authority of BIS.

Related Definitions: NA.

Items: The list of items controlled is contained in the ECCN heading.

Dated: November 14, 2002.

Eileen M. Albanese,

Director, Office of Exporter Services, Export Administration.

[FR Doc. 02–29512 Filed 11–20–02; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 11

[Docket No. RM03–1–000]

Update of the Federal Energy Regulatory Commission's Fees Schedule for Annual Charges for the Use of Government Lands

November 14, 2002.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; update of Federal land use fees.

SUMMARY: In accordance with the Commission's regulations, the Commission by its designee, the Executive Director, is updating its schedule of fees for the use of government lands. The yearly update is based on the most recent schedule of fees for the use of linear rights-of-way prepared by the United States Forest Service. Since the next fiscal year will cover the period from October 1, 2002 through September 30, 2003 the fees in this notice will become effective October 1, 2002. The fees will apply to fiscal year 2003 annual charges for the use of government lands.

EFFECTIVE DATE: October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Fannie Kingsberry, Financial Services Division, Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6108.

SUPPLEMENTARY INFORMATION:

Document Availability:

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

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The Commission has concluded, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C 804(2).

List of Subjects in 18 CFR Part 11

Electric power, Reporting and recordkeeping requirements.

Thomas R. Herlihy,

Executive Director, Office of the Executive Director.

Accordingly, the Commission, effective October 1, 2002, amends part 11 of chapter I, Title 18 of the Code of Federal Regulations, as follows:

PART 11—[AMENDED]

1. The authority citation for part 11 continues to read as follows:

Authority: 16 U.S.C. 791a-825r; 42 U.S.C. 7101–7352.

2. In part 11, appendix A is revised to read as follows:

Appendix A to Part 11—Fee Schedule for FY 2003

State/County	Rate per acre
Alabama:	
All counties	$26.25
Arkansas:	
All counties	19.69
Arizona:	
Apache	6.54
Cochise	
Gila	
Graham	
La Paz	
Mohave	
Navajo	
Pima	
Yavapai	
Yuma	
Coconino (north of Colorado R.)	
Coconino (south of Colorado R.)	26.25
Greenlee	
Maricopa	
Pinal	
Santa Cruz	
California:	
Imperial	13.12
Inyo	
Lassen	
Modoc	
Riverside	
San Bernardino	
Siskiyou	19.69
Alameda	32.81
Alpine	
Amador	
Butte	
Calaveras	
Colusa	
Contra Costa	
Del Norte	
El Dorado	
Fresno	
Glenn	
Humboldt	
Kern	32.81
Kings	
Lake	
Madera	
Mariposa	
Mendicino	
Merced	
Mono	
Napa	
Nevada	
Placer	
Plumas	
Sacramento	
San Benito	
San Joaquin	
Santa Clara	
Shasta	
Sierra	
Solano	
Sonoma	
Stanislaus	
Sutter	
Tehama	
Trinity	
Tulare Kings	
Tuolumne	
Yolo	
Yuba	
Los Angeles	39.39
Marin	
Monterey	
Orange	
San Diego	
San Francisco	
San Luis Obispo	
San Mateo	
Santa Barbara	
Santa Cruz	
Ventura	
Colorado:	
Adams	6.54
Arapahoe	
Bent	
Cheyenne	
Crowley	
Elbert	
El Paso	
Huerfano	
Kiowa	
Kit Carson	
Lincoln	6.54
Logan	
Moffat	
Montezuma	
Morgan	
Pueblo	
Sedgewick	
Washington	
Weld	
Yuma	
Baca	13.12
Broomfield [1]	
Dolores	
Garfield	
Las Animas	
Mesa	
Montrose	
Otero	
Prowers	
Rio Blanco	
Routt	
San Miguel	
Alamosa	26.25
Archuleta	
Boulder	
Chaffee	
Clear Creek	
Conejos	
Costilla	
Custer	
Denver	
Delta	
Douglas	
Eagle	
Fremont	
Gilpin	
Grand	
Gunnison	
Hinsdale	
Jackson	
Jefferson	
Lake	
La Plata	
Larimer	
Mineral	
Ouray	
Park	
Pitkin	
Rio Grande	
Saguache	
San Juan	26.25
Summit	
Teller	
Connecticut:	
All Counties	6.54
Florida:	
Baker	39.39
Bay	
Bradford	
Calhoun	
Clay	
Columbia	
Dixie	
Duval	
Escambia	
Franklin	
Gadsden	
Gilchrist	
Gulf	
Hamilton	
Holmes	
Jackson	
Jefferson	
Lafayette	
Leon	
Liberty	
Madison	
Nassau	
OKaloosa	
Santa Rosa	
Suwannee	
Taylor	
Union	
Wakulla	

State/County	Rate per acre
Walton	.....
Washington	.....
All Other Counties	65.61
Georgia:	
All Counties	39.39
Idaho:	
Cassia	6.54
Gooding	.....
Jerome	.....
Lincoln	.....
Minidoka	.....
Oneida	.....
Owyhee	.....
Power	.....
Twin Falls	.....
Ada	$19.69
Adams	19.69
Bannock	19.69
Bear Lake	19.69
Benewah	19.69
Bingham	19.69
Blaine	19.69
Boise	19.69
Bonner	19.69
Bonneville	19.69
Boundary	19.69
Butte	19.69
Camas	19.69
Canyon	19.69
Caribou	19.69
Clark	19.69
Clearwater	19.69
Custer	19.69
Elmore	19.69
Franklin	19.69
Fremont	19.69
Gem	19.69
Idaho	19.69
Jefferson	19.69
Kootenai	19.69
Latah	19.69
Lemhi	19.69
Lewis	19.69
Madison	19.69
Nez Perce	19.69
Payette	19.69
Shoshone	19.69
Teton	19.69
Valley	19.69
Washington	19.69
Illinois:	
All counties	19.69
Indiana:	
All counties	32.81
Kansas:	
Morton	13.12
All other counties	6.54
Kentucky:	
All counties	19.69
Louisiana:	
All counties	39.39
Maine:	
All counties	19.69
Michigan:	
Alger	19.69
Baraga	19.69
Chippewa	19.69
Delta	19.69
Dickinson	19.69
Gogebic	19.69
Houghton	19.69
Iron	19.69
Keweenaw	19.69
Luce	19.69
Macking	19.69
Marquette	19.69
Menominee	19.69
Ontonagon	19.69
Schoolcraft	19.69
All other counties	26.25
Minnesota:	
All counties	19.69
Mississippi:	
All counties	26.25
Missouri:	
All counties	19.69
Montana:	
Big Horn	6.54
Blaine	6.54
Carter	6.54
Cascade	6.54
Chouteau	6.54
Custer	6.54
Daniels	6.54
Mccone	6.54
Meagher	6.54
Dawson	6.54
Fallon	6.54
Fergus	6.54
Garfield	6.54
Glacier	6.54
Golden Valley	6.54
Hill	6.54
Judith Basin	6.54
Liberty	6.54
Musselshell	6.54
Petroleum	6.54
Phillips	6.54
Pondera	6.54
Powder River	6.54
Prairie	6.54
Richland	6.54
Roosevelt	6.54
Rosebud	6.54
Sheridan	6.54
Teton	6.54
Toole	6.54
Treasure	6.54
Valley	6.54
Wheatland	6.54
Wibaux	6.54
Yellowstone	6.54
Beaverhead	19.69
Broadwater	19.69
Carbon	19.69
Deer Lodge	19.69
Flathead	19.69
Gallatin	19.69
Granite	19.69
Jefferson	19.69
Lake	19.69
Lewis & Clark	19.69
Lincoln	19.69
Madison	19.69
Mineral	19.69
Missoula	19.69
Park	19.69
Powell	19.69
Ravalli	19.69
Sanders	19.69
Silver Bow	19.69
Stillwater	19.69
Sweet Grass	19.69
Nebraska:	
All counties	6.54
Nevada:	
Churchill	3.28
Clark	3.28
Elko	3.28
Esmeralda	3.28
Eureka	3.28
Humboldt	3.28
Lander	3.28
Lincoln	3.28
Lyon	3.28
Mineral	3.28
Nye	3.28
Pershing	3.28
Washoe	3.28
White Pine	3.28
Carson City	32.81
Douglas	32.81
Story	32.81
New Hampshire:	
All counties	19.69
New Mexico:	
Chaves	6.54
Curry	6.54
De Baca	6.54
Dona Ana	6.54
Eddy	6.54
Grant	6.54
Guadalupe	6.54
Harding	6.54
Hidalgo	6.54
Lea	6.54
Luna	6.54
McKinley	6.54
Otero	6.54
Quay	6.54
Roosevelt	6.54
San Juan	6.54
Socorro	6.54
Torrence	6.54
Rio Arriba	13.12
Sandoual	13.12
Union	13.12
Bernalillo	26.25
Catron	26.25
Cibola	26.25
Colfax	26.25
Lincoln	26.25
Los Alamos	26.25
Mora	26.25
San Miguel	26.25
Santa Fe	26.25
Sierra	26.25
Taos	26.25
Valencia	26.25
New York:	
All counties	26.25
North Carolina:	
All counties	39.39
North Dakota:	
All counties	6.54
Ohio:	
All counties	26.25
Oklahoma:	
Beaver	13.12
Cimarron	13.12
Roger Mills	13.12
Texas	13.12
LeFlore	19.69
McCurtain.	
All other counties	6.54
Oregon:	
Harney	6.54
Lake	.....
Malheur	.....
Baker	13.12

State/County	Rate per acre
Crook	
Deschutes	
Gilliam	
Grant	
Jefferson	
Klamath	
Morrow	
Sherman	
Umatilla	
Union	
Wallowa	
Wasco	
Wheeler	
Coos	19.69
Curry	
Douglas	
Jackson	
Josephine	
Benton	26.25
Clackamas	
Clatsop	
Columbia	
Hood River	
Lane	
Lincoln	
Linn	
Marion	
Multnomah	
Polk	
Tillamook	
Washington	
Yamhill	
Pennsylvania:	
All counties	26.25
Puerto Rico:	
All	39.39
South Carolina:	
All counties	39.39
South Dakota:	
Butte	19.69
Custer	
Fall river	
Lawrence	
Mead	19.69
Pennington	
All other counties	6.54
Tennessee:	
All counties	26.25
Texas:	
Culberson	6.54
El Paso	
Hudspeth	
All other counties	39.39
Utah:	
Beaver	6.54
Box Elder	
Carbon	
Duchesne	
Emery	
Garfield	
Grand	
Iron	
Juab	
Kane	
Millard	
San Juan	
Tooele	
Uintah	
Wayne	
Washington	13.12
Cache	19.69
Daggett	
Davis	
Morgan	
Piute	
Rich	
Salt Lake	
Sanpete	
Sevier	
Summit	
Utah	
Wasatch	
Weber	
Vermont:	
All counties	26.25
Virginia:	
All counties	26.25
Washington:	
Adams	13.12
Asotin	
Benton	
Chelan	
Columbia	
Douglas	
Franklin	
Garfield	
Grant	
Kittitas	
Klickitat	
Lincoln	
Okanogan	
Spokane	
Walla Walla	
Whitman	
Yakima	
Ferry	19.69
Pend Oreille	
Stevens	
Clallam	26.25
Clark	
Cowlitz	
Grays Harbor	
Island	
Jefferson	
King	
Kitsap	
Lewis	
Mason	
Pacific	
Pierce	
San Juan	
Skagit	
Skamania	
Snohomish	
Thurston	
Wahkiakum	
Whatcom	
West Virginia:	
All Counties	26.25
Wisconsin:	
All Counties	19.69
Wyoming:	
Albany	6.54
Campbell	
Carbon	
Converse	
Goshen	
Hot Springs	
Johnson	6.54
Laramie	
Lincoln	
Natrona	
Niobrara	
Platte	
Sheridan	
Sweetwater	
Fremont	
Sublette	
Uinta	
Washakie	
Big Horn	19.69
Crook	
Park	
Teton	
Weston	
All Other Zones:	6.20

[1] Note: Broomfield County created November 2001 from parts of Adams, Boulder, Jefferson and Weld Counties.

[FR Doc. 02–29400 Filed 11–20–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. FHWA–99–6190]

RIN 2125–AE67

Traffic Control Devices on Federal-Aid and Other Streets and Highways; Color Specifications for Retroreflective Sign and Pavement Marking Materials

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; amendment.

SUMMARY: This document corrects the final rule on color specifications published in the **Federal Register** on July 31, 2002 (67 FR 49569). The FHWA is removing the sentence that requires the traffic control materials to maintain the color and luminance factors throughout the service life and making a typographical correction to a number in one of the color tables.

EFFECTIVE DATE: December 23, 2002.

FOR FURTHER INFORMATION CONTACT: For technical information: Mr. Ernest Huckaby, Office of Transportation Operations (HOTO), (202) 366–9064. For legal information: Mr. Raymond Cuprill, Office of the Chief Counsel (HCC–40), (202) 366–0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

This document, the final rule, the NPRM, and all comments received may be viewed online through the Document Management System (DMS) at: *http://*

dms.dot.gov. The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document may also be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may also reach the Office of the Federal Register's home page at: *http://www.archives.gov* and the Government Printing Office's web page at: *http://www.access.gpo.gov*.

Background

The final rule on Traffic Control Devices on Federal-Aid and Other Streets and Highways; Color Specifications for Retroreflective Sign and Pavement Marking Materials, was published in the **Federal Register** on July 31, 2002, at 67 FR 49569. This final rule went into effect on August 30, 2002. In response to the final rule, we received 17 comments to the docket. These comments are discussed below.

Discussion of Comments to the Final Rule

Several docket comments to the Notice of Proposed Amendment, published in the **Federal Register** on December 21, 1999, stated that the FHWA did not specify if the specifications were for ''service life'' or new product installation. As a result of these comments, the FHWA published the final rule inserting ''service life'' of the product without providing further justification. The FHWA received 17 comments submitted to the docket as a result of the final rule (9 from State and local DOTs; 2 from industry; 3 from associations; 3 from other individuals). The FHWA received significant comments from the American Association of State Highway and Transportation Officials (ASSHTO), the National Association of County Engineers (NACE), the National Committee on Uniform Traffic Control Devices Markings Technical Subcommittee, and several State and local highway agencies that objected to the FHWA inserting the language ''service life'' into the final rule. These commenters stated that the FHWA did not provide sufficient research results or further justification for such a requirement. Additionally, these commenters did not believe there was sufficient opportunity for public comment before the FHWA adopted this requirement.

These commenters went on to indicate that traditionally, color specifications are considered as initial values only and are used only in the acceptance of new materials. By specifically stating that the color specifications apply throughout the service life of signs and markings, these commenters believe that the FHWA has significantly changed the traditional application of color specifications and placed additional burden on transportation agencies.

The FHWA believes these comments received after publication of the final rule have merit and warrant immediate correction to the final rule. The FHWA made some initial assumptions about maintenance of traffic control devices and was not fully aware of the economic impact that the State and local jurisdictions may face. We agree that this ''service life'' requirement, without an extended phase-in compliance period, may have an unknown economic impact on compliance with these specifications. Therefore, the FHWA is removing this language from the appendix to subpart F of Part 655.

Furthermore, the FHWA plans to undertake a study on color fastness testing, to include weathering studies, and human factors studies related to color recognition by motorists. The FHWA anticipates that this will be a multi-year research effort.

The Reflexite Corporation advised the FHWA of a typographical error in table 2 to the appendix to part 655, subpart F—Nighttime Color Specification Limits for Retroreflective Material with CIE 2° Standard Observer and Observation Angle of 0.33°, Entrance Angle of +5° and CIE Standard Illuminant A. The first value for the color blue was mistakenly typed incorrectly while the table was being reformatted from the notice of proposed rulemaking (NPRM).

Therefore, the FHWA is correcting the typographical error. The first ''x'' coordinate value for the color ''blue'' is corrected to read ''0.033'' instead of ''0.33''. The value ''0.033'' was correctly stated in the NPRM.

We also received a comment from the Virginia Department of Transportation (VDOT) regarding the use of Color Tolerance Charts as a valid source for daytime color measurement. The VDOT believes that the color tolerance charts for assessing nighttime color is not appropriate as the traditional highway color charts were developed for painted signs with button copy legend and thus are not even suitable for daytime color retroreflective materials.

The FHWA will have to address this issue through a separate rulemaking to solicit public comment.

Executive Order 12866 (Regulatory Planning and Review) and U.S. DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of the U.S. Department of Transportation regulatory policies and procedures. The amendment of the final rule is considered a ministerial correction with no economic impact expected.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this action on small entities and has determined that this action will not have a significant economic impact on a substantial number of small entities. As stated above, the removal of the language ''service life'' will alleviate the concerns surrounding the unknown economic impact on complying with this requirement. The minor correction to the first value of the color blue in Table 2 is considered editorial in nature. For these reasons, the FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule will not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1531 *et seq*).

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interface with Constitutionally Protected Property Rights.

Executive Order 12988 (Civil Justice Reform)

This action 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.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health

Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and the FHWA has determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism assessment. The FHWA has also determined that this action will not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this action does not contain collection of information requirements for the purposes of the PRA.

National Environmental Policy Act

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action will not have any effect on the quality of the environment.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that it will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (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. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 655

Design standards, Grant programs-transportation, Highways and roads, Incorporation by reference, Signs, Traffic regulations.

Issued on: November 12, 2002.

Mary E. Peters,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA is amending title 23, Code of Federal Regulations, part 655, as follows:

PART 655—[AMENDED]

1. The authority citation for part 655 continues to read as follows:

Authority: 23 U.S.C. 101(a), 104, 109(d), 114(a), 217, 315, and 402(a); 23 CFR 1.32; and 49 CFR 1.48(b).

Appendix to Subpart F of Part 655—[AMENDED]

2. Amend paragraph number 6 by removing the second sentence.

3. Amend table 2 by correcting the first value for the color ''blue'' to read ''0.033''.

[FR Doc. 02–29443 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF JUSTICE

28 CFR part 16

[AAG/A Order No. 297–2002]

Privacy Act of 1974; Implementation

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is exempting a Privacy Act system of records entitled ''Personnel Investigation and Security Clearance Records for the Department of Justice (DOJ), DOJ–006,'' from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (5) and (8); and (g). The exemptions will be applied only to the extent that information in a record is subject to exemption pursuant to 5 U.S.C. 552a(j) and (k). The Department also will delete as obsolete provisions exempting two former Justice Management Division systems of records entitled ''Security Clearance Information System (SCIS) (JUSTICE/JMD–008),'' and ''Freedom of Information/Privacy Act Records System (JUSTICE/JMD–019).'' The records in JMD–019 are now covered by DOJ–004.

EFFECTIVE DATE: This final rule is effective November 21, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Cahill at 202–307–1823.

SUPPLEMENTARY INFORMATION: On September 24, 2002 (67 FR 59798) a proposed rule was published in the **Federal Register** with an invitation to comment. No comments were received.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, this order will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 16

Administrative Practices and Procedures, Courts, Freedom of Information, Privacy, Sunshine Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, 28 CFR Part 16 is amended as follows:

PART 16—[AMENDED]

1. The authority for Part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), and 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, and 9701.

§ 16.76 [Amended]

2. Section 16.76 is amended by removing paragraphs (c), (d), (e), (f), (g) and (h).

Subpart E—Exemption of Records Systems Under the Privacy Act

3. Section 16.132 is added to subpart E to read as follows:

§ 16.132 Exemption of Department of Justice System—Personnel Investigation and Security Clearance Records for the Department of Justice (DOJ), DOJ–006.

(a) The following Department of Justice system of records is exempted from subsections (c)(3) and (4); (d)(1), (2), (3) and (4); (e)(1),(2),(3),(5) and (8); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k): Personnel Investigation and Security Clearance Records for the Department of Justice (DOJ), DOJ–006. These exemptions apply only to the extent that information in a record is subject to exemption pursuant to 5 U.S.C. 552a(j) and (k).

(b) Exemption from the particular subsections is justified for the following reasons:

(1) *Subsection (c)(3).* To provide the subject with an accounting of disclosures of records in this system could inform that individual of the existence, nature, or scope of an actual or potential law enforcement or counterintelligence investigation, and thereby seriously impede law enforcement or counterintelligence efforts by permitting the record subject and other persons to whom he might disclose the records to avoid criminal penalties, civil remedies, or counterintelligence measures.

(2) *Subsection (c)(4).* This subsection is inapplicable to the extent that an exemption is being claimed for subsection (d).

(3) *Subsection (d)(1).* Disclosure of records in the system could reveal the identity of confidential sources and result in an unwarranted invasion of the privacy of others. Disclosure may also reveal information relating to actual or potential criminal investigations. Disclosure of classified national security information would cause damage to the national security of the United States.

(4) *Subsection (d)(2).* Amendment of the records could interfere with ongoing criminal or civil law enforcement proceedings and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated.

(5) *Subsections (d)(3) and (4).* These subsections are inapplicable to the extent exemption is claimed from (d)(1) and (2).

(6) *Subsection (e)(1).* It is often impossible to determine in advance if investigatory records contained in this system are accurate, relevant, timely and complete, but, in the interests of effective law enforcement and counterintelligence, it is necessary to retain this information to aid in establishing patterns of activity and provide investigative leads.

(7) *Subsection (e)(2).* To collect information from the subject individual could serve notice that he or she is the subject of a criminal investigation and thereby present a serious impediment to such investigations.

(8) *Subsection (e)(3).* To inform individuals as required by this subsection could reveal the existence of a criminal investigation and compromise investigative efforts.

(9) *Subsection (e)(5).* It is often impossible to determine in advance if investigatory records contained in this system are accurate, relevant, timely and complete, but, in the interests of effective law enforcement, it is necessary to retain this information to aid in establishing patterns of activity and provide investigative leads.

(10) *Subsection (e)(8).* To serve notice could give persons sufficient warning to evade investigative efforts.

(11) *Subsection (g).* This subsection is inapplicable to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: November 14, 2002.

Robert F. Diegelman,

Acting Assistant Attorney General for Administration.

[FR Doc. 02–29615 Filed 11–20–02; 8:45 am]

BILLING CODE 4410–FB–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 776

RIN 0703–AA70

Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: This final rule amends regulations concerning the professional conduct of attorneys practicing law under the cognizance and supervision of the Judge Advocate General of the Navy by incorporating several changes and revising the regulations. This revision will ensure the professional supervision of judge advocates, military trial and appellate military judges, and other lawyers who practice in Department of the Navy proceedings and other legal programs.

DATES: Effective November 21, 2002.

FOR FURTHER INFORMATION CONTACT: LCDR Jason Baltimore, Legislation and Regulations Branch, Administrative Law Division (Code 13), Office of the Judge Advocate General, 1322 Patterson Avenue, SE., Suite 3000, Washington Navy Yard, Washington, DC 20374–5066, (703) 604–8208.

SUPPLEMENTARY INFORMATION: This part establishes policy, assigns responsibilities, and prescribes procedures for attorneys practicing law under the supervision of the Judge Advocate General (JAG) for relations with non-DOD civilian counsel, petitions for outside law practice of naval service attorneys, and a description of the complaint processing procedure. This part ensures that attorneys practicing law under the supervision of the JAG will be provided with rules of professional conduct with which they must comply in order to remain in ''good standing.''

Although the rules of professional conduct do not apply to non-lawyers, they do define the type of ethic conduct that the public and the military community have a right to expect not only of lawyers but also of their non-lawyer employees. It has been determined that invitation of public comment on these changes to the JAG's Instruction prior to adoption would be impractical and unnecessary, and is therefore not required under the public rule-making provisions of 32 CFR parts 336 and 701. However, interested persons are invited to comment in writing. Written comments received will be considered in making amendments or revisions to 32 CFR 776 or the JAG Instruction 5803.1 series upon which it is derived. It has been determined that this final rule is not a major rule within the criteria specified in Executive Order 12291 and does not have substantial impact on the public. This submission is a statement of policy and as such can be effective upon publication in the **Federal Register**.

Matters of Regulatory Procedure

Executive Order 12866, Regulatory Planning and Review

This rule does not meet the definition of ''significant regulatory action'' for purposes of E.O. 12866.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Paperwork Reduction Act

This rule does not impose collection of information requirements for purposes of the Paperwork Reduction Act (44 U.S.C. chapter 35, 5 CFR part 1320).

List of Subjects in 32 CFR Part 776

Conflict of interests, Lawyers, Legal services, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of the Navy amends 32 CFR part 776 as follows:

PART 776—PROFESSIONAL CONDUCT OF ATTORNEYS PRACTICING UNDER THE COGNIZANCE AND SUPERVISION OF THE JUDGE ADVOCATE GENERAL

1. Section 776.20 is revised to read as follows:

§ 776.20 Competence.

(a) *Competence.* A covered attorney shall provide competent, diligent, and prompt representation to a client. Competent representation requires the legal knowledge, skill, access to evidence, thoroughness, and expeditious preparation reasonably necessary for representation. Initial determinations as to competence of a covered USG attorney for a particular assignment shall be made by a supervising attorney before case or issue assignments; however, assigned attorneys may consult with supervisors concerning competence in a particular case.

(b) [Reserved]

2. Section 776.53 is amended by revising paragraph (a)(4) to read as follows:

§ 776.53 Responsibilities of the Judge Advocate General and supervisory attorneys.

(a) * * *

(4) A supervisory attorney is responsible for ensuring that the subordinate covered attorney is properly trained, is competent to perform the duties and has all appropriate credentials, including security clearances, to perform the duties to which the subordinate covered attorney is assigned.

J.T. Baltimore,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 02–29566 Filed 11–20–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–02–112]

Drawbridge Operation Regulations; US17 Highway Bridges, Ashley River, Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the US17 highway bridges across the Ashley River, miles 2.4 and 2.5, at Charleston, South Carolina. This deviation allows both bridges to provide single-leaf openings, upon proper signal, from 7 a.m. on November 8, 2002 until 7 p.m. on December 30, 2002. This temporary deviation is necessary to allow the bridge owner to safely complete repairs to the bridge structures.

DATES: This deviation is effective from 7 a.m. on November 8, 2002 until 7 p.m. on December 30, 2002.

ADDRESSES: Material received from the public, as well as documents indicated in this preamble as being available in the docket [CGD07–02–112] will become part of this docket and will be available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, FL 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lieberum, Project Officer, Seventh Coast Guard District, Bridge Branch at (305) 415–6744.

SUPPLEMENTARY INFORMATION: The existing regulations in 33 CFR 117.915(a) govern the operation of the US17 highway bridges across the Ashley River. Those regulations require the bridges to open on signal; except that from 7 a.m. to 9 a.m., Monday through Friday and from 4 p.m. to 7 p.m. daily, the draws need only open if at least 12 hours notice is given. The draws of either bridge shall open as soon as possible for the passage of vessels in an emergency involving danger to life or property.

The US17 bridges across the Ashley River, miles 2.4 and 2.5, are both twin double-leaf bascule bridges with vertical clearances of 14 feet at mean high water and horizontal clearances of 100 feet between the fenders. On July 8, 2002, the Industrial Company (TLC), representing the South Carolina Department of Transportation, requested a temporary deviation from the existing regulations governing the US17 bridges to facilitate repairs to the bridge structures. The Industrial Company requested permission to be able to keep one span of each bridge in the closed position for a period to facilitate repairs. This temporary deviation allows the US17 bridges to only open a single leaf of each bridge from 7 a.m. on November 8, 2002 until 7 p.m. on December 30, 2002. The single leaf openings will still provide a horizontal clearance of 50 feet. The Coast Guard is unaware of any vessel that will be unable to pass through this 50-foot horizontal clearance.

The Commander, Seventh Coast Guard District has granted a temporary deviation from the operating requirements listed in 33 CFR 117.915(a) to allow the US17 bridges to only open a single leaf of each bridge from 7 a.m. on November 8, 2002 until 7 p.m. on December 30, 2002.

Dated: November 6, 2002.

Greg Shapley,

Chief, Bridge Administration Branch, Seventh Coast Guard District.

[FR Doc. 02–29653 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

RIN 0596–AB48

Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts To Facilitate Urgent Timber Removal From Other Lands

AGENCY: Forest Service, USDA.

ACTION: Interim rule; request for comments.

SUMMARY: The Forest Service is proceeding with an interim rule to provide authority for Regional Foresters to authorize Contracting Officers to extend the contract performance time on certain National Forest System timber sale contracts to facilitate the harvest of damaged timber from private or other non-National Forest System lands. These contract extensions will allow the expeditious removal of timber in other ownerships damaged by catastrophic events beyond the landowner's control. Catastrophic events include, but are not limited to, severe wildfire, flood, insect and disease infestations, drought, and

windthrow. This interim rule also provides for adjustment of future periodic payment determination dates as an element of these contract extensions.

The purposes of this interim rule are to save volume and value of damaged non-National Forest System timber, to improve protection of National Forest System lands from fire and disease that could otherwise develop on these damaged lands, to reduce the threat to public safety and property due to fire and hazardous dead trees, and to promote the wise use and conservation of the Nation's natural resources. An urgent removal extension will not be approved for any National Forest System timber sale contracts that contain dead or dying timber subject to rapid deterioration.

DATES: This interim rule is effective November 21, 2002. Comments must be received in writing by January 21, 2003.

ADDRESSES: Send written comments to the Director of Forest and Rangeland Management, via the U.S. Postal Service to MAIL STOP 1105, Forest Service, USDA, 1400 Independence Avenue, SW., Washington, DC 20250–1105; via e-mail to *rbaumback@fs.fed.us;* or via facsimile to 202–205–1045. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received on this interim rule in the office of the Director of Forest and Rangeland Management, Third Floor, Northwest Wing, Yates Building, 201 14th Street, SW., Washington, DC. Visitors are encouraged to call ahead to (202) 205–0893 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Rex Baumback, Forest and Rangeland Management, (202) 205–0855.

SUPPLEMENTARY INFORMATION:

Background

Periodically, catastrophic events such as severe drought conditions, insect and disease outbreaks, wildfires, floods, and windthrow occur on forested lands within, or near, National Forest System (NFS) lands. As a result of such catastrophic events, substantial amounts of private and other public timber may be severely damaged. This damaged timber must be harvested within a relatively short time period to avoid substantial losses in both the quantity and quality of the timber due to deterioration. The critical time period available for harvesting this damaged timber and avoiding substantial deterioration varies with the season of the year, the species of timber, the damaging agent, and the location of the damaged timber. In most cases, substantial deterioration can be avoided if the damaged timber is harvested within 1 year of the catastrophic event. The number of wildfires and the extent of damage experienced in the last few years has resulted in renewed requests by forest products companies and forest industry associations for the Forest Service to adjust its contracting procedures to support expeditious removal of damaged timber on non-National Forest System lands.

Regulatory and Administrative Framework

The National Forest Management Act of 1976 (16 U.S.C. 472a(c)) provides that timber sale contracts with an original term of 2 years or more may not be extended unless there is a finding that substantial overriding public interest justifies an extension. Section 223.115 of Title 36 of the Code of Federal Regulations delegates the authority to make extensions of timber sale contracts to Contracting Officers once a substantial overriding public interest finding has been made.

The Forest Service timber sale contract provides authority to allow additional contract time on undamaged (green) NFS timber sale contracts in order to harvest damaged timber outside the sale area on NFS lands. However, the Forest Service does not have the current authority to allow additional contract time on NFS timber sale contracts for the harvest of damaged timber from private or other non-National Forest System (non-NFS) lands.

Impediments to Timely Harvest

When significant catastrophic events occur on non-NFS lands, timber sale purchasers often do not have the personnel, equipment, or mill capacity to take on new contracts. Thus, landowners who have suffered from catastrophic events may find themselves competing for available loggers, buyers, and mill capacity to get damaged timber removed before deterioration occurs. If a purchaser has an opportunity to contract for timber on non-NFS land that is now damaged and also holds an NFS timber sale contract for undamaged (green) timber, that purchaser may face three choices: (1) Declining to bid on the contract for harvest of damaged timber from non-NFS lands, and harvesting the NFS undamaged (green) timber contract, thus allowing the damaged non-NFS timber to deteriorate; (2) harvesting both the NFS undamaged (green) timber and the damaged non-NFS timber under the terms and deadlines of the applicable contracts; (3) or harvesting only the damaged, non-NFS timber and potentially breaching the NFS undamaged (green) timber sale contract. If a purchaser already has a non-NFS timber sale contract, which now must be operated more quickly than anticipated because of catastrophic damages, that purchaser also faces difficult and costly choices.

Even if the purchaser has personnel and equipment to handle NFS and non-NFS timber sale contracts, a purchaser may face significant additional costs arising from stockpiling the undamaged (green) NFS timber, if manufacturing capacity is not available. The additional costs incurred in this scenario include the cost of carrying inventories, logging expenses, stumpage payments, and other payments required under the NFS contract terms. If log-decking space is not available, stockpiling inventory may not be possible. If logging equipment is scarce, a purchaser may have little to no opportunity to remove the damaged non-NFS timber in a timely manner.

Risks and Benefits Associated With Removal of Damaged Timber

Damaged timber can provide a source of highly flammable fuel for future wildfires, with inherent risks to public safety and property as well as to resource values of any nearby NFS lands. Damaged timber also can provide a habitat conducive to the development of insect infestations and subsequent diseases that could threaten nearby undamaged (green) timber stands on private, NFS, or other public land.

The overriding public benefit and justification for extending certain NFS timber sale contracts to allow the harvest of damaged timber requiring expeditious removal from non-NFS lands is the improved protection of nearby NFS lands from loss due to fire and/or insect and disease outbreaks, reduction of the threat to public safety and property from such catastrophic events, and promotion of wise use and conservation of the natural resources of the Nation by utilizing rather than wasting damaged timber. In addition, expeditiously harvesting the damaged non-NFS timber before it deteriorates provides private and other public landowners direct economic benefits from the utilization of the resource through revenues received through sale of the timber and indirect benefits as a result of the employment generated by converting the raw salvage timber into marketable products.

Finding of Substantial Overriding Public Interest

Having considered (1) the plight of private and other non-NFS landowners whose timber has been damaged by wildfire and other catastrophes this year; (2) the Forest Service statutory and regulatory framework for adjusting contracts; (3) the need for purchasers to plan their operation and to enter into contracts for the timely removal of damaged timber, and (4) the ability to protect the U.S. taxpayer from any losses associated with Forest Service contract extensions or loss of valuable timber; the Chief of the Forest Service has found there is substantial overriding public interest in extending NFS timber sale contracts for the harvest of undamaged (green) timber not requiring expeditious removal, when such an extension will expedite the rapid harvest of damaged timber requiring expeditious removal from private or other non-NFS lands. Extensions of undamaged (green) NFS timber sale contracts will only be approved if the delay of harvesting will not cause resource damage, delay the completion of needed projects, delay the harvest of damaged NFS timber, or in any other manner adversely impact the management of National Forest System lands. Highest priority consideration will be given to requests for extensions that involve damaged non-NFS timber adjacent to National Forest System lands.

Changes to 36 CFR Part 223, Subpart B

Section 223.53 Urgent Removal Extensions. This interim rule adds a new § 223.53. Paragraph (a) of this new section documents the Chief's finding that there is substantial, overriding public interest in extending NFS timber sale contracts to facilitate expeditious removal of timber on non-NFS lands damaged by a specific catastrophic event.

Paragraph (b) requires that the Regional Forester make a written determination on whether cause for an urgent removal extension exists. It also sets out the criteria that Regional Foresters must apply when making this determination. The rule provides that, in making this determination, the Regional Forester must document that the specific conditions, listed in paragraph (b), items 1 through 4, exist and that an extension of NFS timber sale contracts for the expeditious removal of damaged timber from non-NFS land is in the public interest.

Paragraph (c) lists the required documentation that purchasers must provide to the Contracting Officer when requesting urgent removal extensions of undamaged (green) NFS timber sale contracts to expedite salvage operations of catastrophically damaged timber on non-NFS lands. The agency has limited this information to only that essential to determine that expeditious removal is in the public interest. A full disclosure of the information required is set out later in this document under the heading ''Controlling Paperwork Burdens on the Public.''

Paragraph (d) assigns Contracting Officers the authority to grant an urgent removal extension on an individual sale, up to a maximum of one year, for the purpose of expeditious removal of damaged non-NFS timber.

Paragraph (e) sets forth terms and conditions that must be included in a mutual contract modification before a Contracting Officer may grant an extension of an NFS timber sale contract. A formula is provided in this paragraph that must be used to determine the amount that purchasers must pay at the time of a contract modification in consideration for the additional contract term. This payment would be in keeping with the Comptroller General's long-standing rule that no officer or agent of the Government has the authority to waive contractual rights which have accrued to the United States or to modify existing contracts to the detriment of the Government without legal consideration (44 Comp. Gen. 746, 749 (1965); 5 Comp. Gen. 605 (1926)).

Purchasers are also required by paragraph (e) to make payment to cover the cost of re-marking timber, if necessary. Such a payment is consistent with the Comptroller General's rule requiring reimbursement to the Government for costs incurred if remarking of the timber or reestablishing cutting unit boundaries is required due to the extension. This payment is also a standard requirement for other NFS contract extensions under the terms of the timber sale contract (contract provision B/BT8.23).

Paragraph (f) states that the information purchasers are required to provide, as outlined in paragraph (c), constitutes a new information collection and cites the Office of Management and Budget's control number.

Section 223.50 Periodic Payments. Establishment of a contract extension for the purposes of expeditious removal at § 223.53 requires a conforming amendment to § 223.50. The interim rule revises paragraph (e) of this section to authorize adjustments of dates for determining future periodic payment date(s) when an urgent removal extension is granted under the new rule and when contract term extensions are granted under the general authority of § 223.115(b).

The current text, at § 223.50(e), provides for adjustment of future periodic payment determination dates when contract term adjustments are granted under § 223.46 or when market-related contract term additions are granted under § 223.52, but explicitly prohibits a similar adjustment when contract term extensions are granted under the general authority of § 223.115.

Therefore, the adjustment of periodic payment determination date(s) is necessary to allow purchasers to transfer their financial resources from an NFS contract to facilitate harvesting of non-NFS timber needing expeditious removal.

Conclusion

By adoption of this interim rule, the Chief of the Forest Service is making a finding that there is substantial overriding public interest in extending NFS timber sale contracts when such an extension will facilitate the expeditious removal of timber damaged by catastrophic events on non-NFS lands, thus reducing the threat to public safety and property and promoting the wise use and conservation of the Nation's natural resources. An urgent removal extension will not be approved for an NFS timber sale contract that contains dead or dying timber subject to rapid deterioration.

Good Cause Statement

The 2002 fire season is on pace to be more damaging than that seen in 1988, 1994, and 2000. These fire seasons are considered to be some of the more noteworthy in modern times. Over 6.7 million acres have been burned this year, nearly doubling the 10-year average. Two-thirds of the acreage burned, 4.5 million acres, has been on private or other non-NFS lands. This interim rule is necessary because burned timber not harvested promptly will deteriorate and lose volume and value, making harvest and utilization of the damaged timber uneconomical. Without prompt removal of damaged timber, nearby NFS lands will be more likely to experience fire or insect and disease outbreaks, the threat to public safety and property from such catastrophic events will be higher, and affected landowners would not be able to achieve wise use and conservation of the natural resources on their lands. Further, without prompt harvest, private and other public landowners will be unable to obtain the economic benefits and revenues from the utilization of the resource and the public will lose the

indirect benefits that will result from the employment generated by converting the raw salvage timber into marketable products.

This interim rule will assist timber sale purchasers who, with limited processing or manufacturing capacity or limited logging equipment capacity, must make immediate decisions on whether to meet their contract requirements by harvesting undamaged (green) NFS timber under contract or to purchase and harvest salvage timber burned during the summer of 2002 on private, tribal, State, or other Federal land. Under these circumstances, the Department has determined that prior notice and opportunity for public comment are not practicable and are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective immediately after publication in the **Federal Register**.

Comments received on this interim rule will be considered in adoption of a final rule, notice of which will be published in the **Federal Register**. The final rule will include a response to comments received and identify any revisions made to the rule as a result of the comments.

Regulatory Certifications

Regulatory Impact

This interim rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. OMB has determined that this is not a significant rule. This rule will not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This rule will not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this interim rule is not subject to OMB review under Executive Order 12866.

Moreover, this interim rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this rule will not have a significant economic impact on a substantial number of small entities. The interim rule imposes minimal additional requirements on all timber purchasers for the purpose of validating the need for such extensions and to determine whether or not to approve the requested extension. The information required is easily within the capability of small entities to produce. All businesses that desire an urgent removal extension must show that the extension is needed in order to harvest and salvage deteriorating non-NFS timber, while avoiding contract default on NFS timber.

Environmental Impact

This interim rule establishes uniform criteria to be followed when consideration is being given to extending an NFS timber sale contract because of the need for expeditious removal of damaged non-NFS timber. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions'' that do not significantly affect the quality of the human environment. The agency's preliminary assessment is that this rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement. The intent of this interim rule is to provide authority to allow additional contract time on NFS timber sale contracts for the harvest of damaged timber from private or other non-NFS lands, thus saving valuable resources from deterioration. No change in resources on NFS land would occur from implementation of this rule except to defer operations on an NFS timber sale. A final determination will be made upon adoption of a final rule.

Controlling Paperwork Burdens on the Public

This interim rule represents a new information requirement as defined in 5 CFR Part 1320, Controlling Paperwork Burdens on the Public. In accordance with those rules and the Paperwork Reduction Act of 1995 as amended (44 U.S.C. 3501, *et seq.*), the Forest Service has requested emergency approval from the Office of Management and Budget for this new information collection.

The information to be collected from purchasers applying for an urgent removal extension (para. c of § 223.53) is the minimum needed for the Contracting Officer to make an informed decision on whether good cause exists to grant an extension.

Description of Information Collection

Title: Contract Extension Request to Harvest Damaged Non-National Forest System Timber.

OMB Number: 0596–0167.

Expiration Date of Approval: April 30, 2003.

Type of Request: The following collection requirements are new and have not previously received approval by the Office of Management and Budget.

Abstract: This collection requires a purchaser to provide information needed to grant an extension of NFS timber sale contracts to allow the harvest of damaged timber, located on private or other public lands, which is in need of expeditious removal because of catastrophic events beyond the control of the landowner. Catastrophic events, which may result in the need for expeditious removal of damaged timber, include, but are not limited to, severe wildfire, flood, insect and disease infestations, drought, and windthrow. Specifically, purchasers applying for an extension would be required to provide:

(1) An explanation of how the harvest of the damaged non-NFS timber in need of expeditious removal affects or prevents the removal of undamaged (green) NFS timber within the term of the existing NFS contract(s);

(2) Documentation that the manufacturing facilities or logging equipment capacity available to a purchaser would be insufficient to provide for both the rapid salvage of damaged non-NFS timber in need of expeditious removal and continued harvest of undamaged (green) NFS timber under contract with the Forest Service; and

(3) A notarized statement that the purchaser will not hold the Forest Service liable for any damages or lost time incurred on the non-NFS and NFS contracts in the event that a request for an extension is delayed or denied, or for any damages under NFS contracts due to delay, suspension, modification, or cancellation (in whole or in part) subsequent to or during the extension.

Estimate of Burden: The public reporting burden to provide information when requesting a timber sale contract extension is estimated to average 2 hours per response.

Respondents: Individuals, large and small businesses, and corporations purchasing NFS timber sales.

Estimated Number of Respondents: 25.

Estimated Number of Responses per Respondent: 1 response per year.

Estimated Total Annual Burden on Respondents: 50 hours.

Comments are Invited on: (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 this agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (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 the use of automated collection techniques or other forms of information technology.

Use of Comments: All comments received in response to this information collection will be summarized and included in the request for final OMB approval. All comments, including names and addresses when provided, will become a matter of public record.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, the Department has assessed the effects of this rule on State, local, and tribal governments and the private sector. This interim rule does not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

List of Subjects in 36 CFR Part 223

Administrative practices and procedures, Exports, Government contracts, Forests and forest products, National forests, Reporting and recordkeeping requirements.

Therefore, for the reasons set forth in the preamble, Part 223 of Title 36 of the Code of Federal Regulations is amended as follows:

PART 223—SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER

1. The authority citation for Part 223 continues to read as follows:

Authority: 90 Stat. 2958, 16 U.S.C. 472a; 98 Stat. 2213, 16 U.S.C. 618; 104 Stat. 714–726, 16 U.S.C. 620–620j, unless otherwise noted.

Subpart B—Timber Sale Contracts

2. Revise paragraph (e) of § 223.50 to read as follows:

§ 223.50 Periodic payments.

* * * * *

(e) Dates for determining future periodic payments shall be adjusted as follows:

(1) When contract term adjustments are granted under § 223.46,

(2) When market-related contract term additions are granted under § 223.52,

(3) When urgent removal extensions are granted under § 223.53, or

(4) When extensions in the substantial overriding public interest are granted under § 223.115(b). Periodic payment determination dates shall not be adjusted when a contract term extension is granted under the general authority of § 223.115(a).

* * * * *

3. Add a new § 223.53 under the undesignated center heading ''Contract Conditions and Provisions'' to read as follows:

§ 223.53 Urgent removal contract extensions.

(a) *Finding.* There is substantial, overriding public interest in extending National Forest System timber sale contracts for undamaged (green) timber not requiring expeditious removal in order to facilitate the rapid harvest of catastrophically damaged timber requiring expeditious removal on private or other non-National Forest System lands. Such an extension may be granted when a specific catastrophic event beyond the control of the landowner occurs on non-National Forest System lands that poses a threat to general forest health, public safety, and property. Catastrophic events include, but are not limited to, severe wildfire, wind, floods, insects and disease infestation, and drought.

(b) *Regional Forester determination.* If the Regional Forester determines that adequate cause for urgent removal extensions exists, Contracting Officers may extend a National Forest System timber sale contract, up to a maximum of 1 year, for the estimated amount of time required to harvest and process the damaged timber on non-National Forest System lands. The Contracting Officer may grant an urgent removal extension only when the Regional Forester verifies in writing that:

(1) A specific catastrophe occurred on the particular geographic area for which urgent removal extensions may be granted;

(2) There is a high risk that substantial timber quantities or values of the damaged non-National Forest System timber in the affected geographic area would deteriorate unless expeditiously removed;

(3) The manufacturing facilities or logging equipment capacity available to purchasers are insufficient to provide for both the rapid harvest of damaged non-National Forest System timber in need of expeditious removal and the continued harvest of undamaged (green) timber under contract with the Forest Service; and

(4) Failure to harvest the damaged non-National Forest System timber promptly could result in the following:

(i) Significant private or other public resource loss,

(ii) Pose a threat to public safety, or

(iii) Create a threat of an insect or disease epidemic to National Forest System or other lands or resources.

(c) *Purchaser request.* In order to obtain an urgent removal extension on a National Forest System timber sale contract, a purchaser must make a written request to the Contracting Officer, which includes the following:

(1) An explanation of why the harvest of the damaged non-National Forest System timber in need of expeditious removal will prevent or otherwise impede the removal of undamaged (green) National Forest System timber within the term of the existing National Forest System contract(s);

(2) Documentation that the manufacturing facilities or logging equipment capacity available to a purchaser would be insufficient to provide for both the rapid salvage of damaged non-National Forest System timber in need of expeditious removal and continued harvest of undamaged (green) National Forest System timber under contract with the Forest Service; and

(3) A notarized statement that the purchaser will not hold the Forest Service liable for any damages or lost time incurred on the non-National Forest System and National Forest System contracts in the event that a request for an extension is delayed or denied, or for any damages under National Forest System contracts due to delay, suspension, modification, or cancellation (in whole or in part) subsequent to or during the extension.

(d) *Contracting Officer determination.* In order to grant an urgent removal extension, the timber sale Contracting Officer must verify the following:

(1) That it is likely that the undamaged (green) timber from National Forest System land would be delivered to the same manufacturing facilities as are needed to process the damaged non-National Forest System timber or the National Forest System timber sale contract would require the use of the same logging equipment as is needed to remove the damaged non-National Forest System timber from the area affected by the catastrophe;

(2) That extension of the National Forest System contract will not be injurious to the United States and will protect, to the extent possible, the health of the National Forest System lands;

(3) That the urgent removal extension does not adversely affect other resource management objectives to be

implemented by the National Forest System timber sale being extended;

(4) That the National Forest System timber sale contract to be extended is not a sale containing damaged, dead, or dying timber subject to rapid deterioration;

(5) That the National Forest System timber sale contract at issue has not been granted a previous urgent removal extension;

(6) That the revised National Forest System timber sale contract term will not exceed 10 years from the date the National Forest System contract was awarded;

(7) That the National Forest System contract is not in breach, and all work items, payments, and deposits are current; and

(8) That the purchaser has signed and had notarized the following statement:

By submission of this request, I release, waive, and abandon any and all claims against the United States for delay in the processing or denial of this request for an urgent removal extension of my National Forest System timber sale(s), contract number(s) _____, including, but not limited to, all claims for costs, expenses, attorney fees, compensatory damages, and exemplary damages arising out of or related to any non-National Forest System timber sale contract(s) and the National Forest System timber sale(s) contract(s) identified above. Should my request be granted, I release, waive, and abandon any and all claims against the United States due to delay, suspension, modification, or cancellation (in whole or in part) of the extended National Forest System timber sale contract(s), including, but not limited to, all claims for costs, expenses, attorney fees, compensatory damages, and exemplary damages. This liability limitation supersedes any other compensation or liability provisions set forth in the timber sale contract, Federal regulation, or the common law.

(e) *Execution of contract extension.* An urgent removal extension of a National Forest System timber sale contract is executed through a mutual agreement contract modification pursuant to § 223.112, which must include specific contract provisions. An agreement to modify a contract must identify the specific provision(s) of the contract being modified and must include the following terms and conditions:

(1) Purchasers must make cash payment to the Forest Service at the time of modification granting an urgent removal extension in consideration for the additional contract term. Such payment (P) shall be equal to interest on the difference between current contract value (CCV) at the time of the modification and the credit balance of any deposits (D). The interest rate (i) shall be the prevailing U.S. Department of the Treasury current value of funds rate in effect at time of modification. The time period (t) to be used in the calculation of interest shall be the number of months of contract extension granted. Payments so made shall not be refunded as excess cash deposits. This calculation is expressed by the following formula:

$$P = i(CCV - D)(t/12)$$

(2) Purchasers must make cash payment to cover the costs of remarking timber on the sale area or reestablishing cutting unit boundaries if the Contracting Officer determines such work is necessary.

(3) For sales subject to stumpage rate adjustment, future adjustment of tentative rates will not result in rates less than the current contract rates at the time of the extension.

(f) *Information collection.* The information required of a purchaser to request an extension of an National Forest System timber sale contract, as outlined in paragraph (c) of this section, to facilitate expeditious removal of timber from non-National Forest System lands constitutes an information collection requirement as defined in 5 CFR Part 1320 and has been assigned Office of Management and Budget control number 0596–0167.

Dated: November 13, 2002.

David P. Tenny,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 02–29542 Filed 11–20–02; 8:45 am]

BILLING CODE 3410–11–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 61, and 63

[FRL–7411–4]

Delegation of Authority to the States of Iowa; Kansas; Missouri; Nebraska; Lincoln-Lancaster County, Nebraska; and City of Omaha, Nebraska, for New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP); and Maximum Achievable Control Technology (MACT) Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: The states of Iowa, Kansas, Missouri, Nebraska, and the local agencies of Lincoln-Lancaster County, Nebraska, and city of Omaha, Nebraska, have submitted updated regulations for delegation of EPA authority for implementation and enforcement of NSPS, NESHAP, and MACT. The submissions cover new EPA standards and, in some instances, revisions to standards previously delegated. EPA's review of the pertinent regulations shows that they contain adequate and effective procedures for the implementation and enforcement of these Federal standards. This action informs the public of delegations to the above-mentioned agencies.

DATES: This rule is effective on December 23, 2002. The dates of delegation can be found in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Environmental Protection Agency, Air Planning and Development Branch, 901 N 5th Street, Kansas City, Kansas 66101.

Effective immediately, all notifications, applications, reports, and other correspondence required pursuant to the newly delegated standards and revisions identified in this document should be submitted to the Region 7 office, and, with respect to sources located in the jurisdictions identified in this document, to the following addresses:

Iowa Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Urbandale, Iowa 50322.

Kansas Department of Health and Environment, Bureau of Air and Radiation, 1000 SW., Jackson, Suite 310, Topeka, Kansas 66612.

Missouri Department of Natural Resources, Air Pollution Control Program, Jefferson State Office Building, P.O. Box 176, Jefferson City, Missouri 65102.

Nebraska Department of Environmental Quality, Air and Waste Management Division, P.O. Box 98922, Statehouse Station, Lincoln, Nebraska 68509.

Lincoln-Lancaster County Division of Environmental Health, Air Pollution Control Agency, 3140 ''N'' Street, Lincoln, Nebraska 68510.

City of Omaha, Public Works Department, Air Quality Control Division, 5600 South 10th Street, Omaha, Nebraska 68107.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551–7603.

SUPPLEMENTARY INFORMATION: The supplementary information is organized in the following order:

What does this action do?
What is the authority for delegation?
What does delegation accomplish?
What has been delegated?
What has not been delegated?

List of Delegation Tables

Table I—NSPS, 40 CFR part 60
Table II—NESHAPS, 40 CFR part 61
Table III—NESHAPS, 40 CFR part 63

What Does This Action Do?

The EPA is providing notice that it has delegated authority for implementation and enforcement of the Federal standards shown in the tables below to the state and local air agencies in Region 7. This rule updates the delegation tables previously published at 66 FR 50110 (October 2, 2001). The EPA has established procedures by which these agencies are automatically delegated the authority to implement the standards when they adopt regulations which are identical to the Federal standards. We then periodically provide notice of the new and revised standards for which delegation has been given.

What Is the Authority for Delegation?

1. Section 111(c)(1) of the Clean Air Act (CAA) authorizes EPA to delegate authority to any state agency which submits adequate regulatory procedures for implementation and enforcement of the NSPS program. The NSPS standards are codified at 40 CFR part 60.

2. Section 112(l) of the CAA and 40 CFR part 63, subpart E, authorizes the EPA to delegate authority to any state or local agency which submits adequate regulatory procedures for implementation and enforcement of emission standards for hazardous air pollutants. The hazardous air pollutant standards are codified at 40 CFR parts 61 and 63, respectively.

What Does Delegation Accomplish?

Delegation confers primary responsibility for implementation and enforcement of the listed standards to the respective state and local air agencies. However, EPA also retains the authority to enforce the standards if it so desires.

What Has Been Delegated?

Tables I, II, and III below list the delegated standards. The first date in each block is the reference date to the CFR contained in the state rule. In general, the state or local agency has adopted the applicable standard through this date as noted in the table. The second date is the most recent effective date of the state agency rule for which the EPA has granted the delegation.

What Has Not Been Delegated?

1. The EPA regulations effective after the first date specified in each block have not been delegated, and authority for implementation of these regulations is retained solely by EPA.

2. In some cases, the standards themselves specify that specific provisions cannot be delegated. You should review the applicable standard for this information.

3. In some cases, the agency rules do not adopt the Federal standard in its entirety. Each agency rule (available from the respective agency) should be consulted for specific information.

4. In some cases, existing delegation agreements between the EPA and the agencies limit the scope of the delegated standards. Copies of delegation agreements are available from the state agencies, or from this office.

5. With respect to 40 CFR part 63, subpart A, General Provisions (see Table III), the EPA has determined that sections 63.6(g), 63.6(h)(9), 63.7(e)(2)(ii) and (f), 63.8(f), and 63.10(f) cannot be delegated. Additional information is contained in an EPA memorandum titled ''Delegation of 40 CFR Part 63 General Provisions Authorities to State and Local Air Pollution Control Agencies' from John Seitz, Director, Office of Air Quality Planning and Standards, dated July 10, 1998.

List of Delegation Tables

TABLE I.—DELEGATION OF AUTHORITY—PART 60 NSPS—REGION 7

Sub-Part	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska
A	General Provisions	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
D	Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971.	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
Da	Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
Db	Industrial-Commercial-Institutional Steam Generating Units	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
Dc	Small Industrial-Commercial-Institutional Steam Generating Units	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
E	Municipal Incinerators	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
Ea	Municipal Waste Combustors Constructed after December20, 1989, and on or before September 20, 1994.	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
Eb	Municipal Waste Combustors for Which Construction is Commenced after September 20, 1994.	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
Ec	Hospital/medical/infectious Waste Incinerators for Which Construction Commenced after June 20, 1996.	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
F	Portland Cement Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
G	Nitric Acid Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
H	Sulfuric Acid Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
I	Asphaltic Concrete Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02

TABLE I.—DELEGATION OF AUTHORITY—PART 60 NSPS—REGION 7—Continued

Sub-Part	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska
J	Petroleum Refineries	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
K	Storage Vessels for Petroleum Liquid for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
Ka	Storage Vessels for Petroleum Liquid for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
Kb	Volatile Organic Liquid Storage Vessels for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
L	Secondary Lead Smelters	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
M	Brass & Bronze Production Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
N	Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
Na	Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
O	Sewage Treatment Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
P	Primary Copper Smelters	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
Q	Primary Zinc Smelters	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
R	Primary Lead Smelters	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
S	Primary Aluminum Reduction Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
T	Wet Process Phosphoric Acid Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
U	Superphosphoric Acid Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
V	Diammonium Phosphate Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
W	Triple Superphosphate Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
X	Granular Triple Superphosphate Storage Facilities	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
Y	Coal Preparation Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
Z	Ferroalloy Production Facilities	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
AA	Steel Plant Electric Arc Furnaces Constructed After October 21, 1974, and on or Before August 17, 1983.	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
AAa	Steel Plant Electric Arc Furnaces & Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983.	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
BB	Kraft Pulp Mills	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	.....
CC	Glass Manufacturing Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
DD	Grain Elevators	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
EE	Surface Coating of Metal Furniture	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
GG	Stationary Gas Turbines	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
HH	Line Manufacturing Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
KK	Lead-Acid Battery Manufacturing Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
LL	Metallic Mineral Processing Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
MM	Auto & Light-Duty Truck Surface Coating Operations	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
NN	Phosphate Rock Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
PP	Ammonium Sulfate Manufacture	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
QQ	Graphic Arts Industry: Publication Rotogravure Printing	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
RR	Pressure Sensitive Tape Label Surface Coating Operations	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02

TABLE I.—DELEGATION OF AUTHORITY—PART 60 NSPS—REGION 7—Continued

Sub-Part	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska
SS	Industrial Surface Coating: Large Appliances	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
TT	Metal Coil Surface Coating	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
UU	Asphalt Processing & Asphalt Roofing Manufacture	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
VV	SOCMI Equipment Leaks (VOC)	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
WW	Beverage Can Surface Coating Industry	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
XX	Bulk Gasoline Terminals	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
AAA	New Residential Wood Heaters	08/31/93 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
BBB	Rubber Tire Manufacturing Industry	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
DDD	Polymer Manufacturing Industry (VOC)	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
FFF	Flexible Vinyl and Urethane Coating and Printing	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
GGG	Equipment Leaks of VOC in Petroleum Refineries	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
HHH	Synthetic Fiber Production Facilities	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
III	SOCMI AIR Oxidation Unit Processes	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
JJJ	Petroleum Dry Cleaners	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
KKK	VOC Leaks from Onshore Natural Gas Processing Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
LLL	Onshore Natural Gas Processing: SO_2	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
NNN	VOC Emissions from SOCMI Distillation Operations	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
OOO	Nonmetallic Mineral Processing Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
PPP	Wool Fiberglass Insulation Manufacturing Plants	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
QQQ	VOC Emissions from Petroleum Refinery Wastewater Systems	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
RRR	VOC Emissions from SOCMI Reactor Processes	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
SSS	Magnetic Tape Coating Facilities	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
TTT	Surface Coating of Plastic Parts for Business Machines	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
UUU	Calciners & Dryers in Mineral Industries	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
VVV	Polymeric Coating of Supporting Substrates Facilities	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
WWW	New Municipal Solid Waste Landfills Accepting Waste On or After May 30, 1991	08/14/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02
AAAA	New Small Municipal Solid Waste Combustion Units	08/14/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02
CCCC	New Commercial and Industrial Solid Waste Incineration Units	08/14/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02

TABLE II.—DELEGATION OF AUTHORITY—PART 61 NESHAP—REGION 7

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
A	General Provisions	10/14/97 05/13/98	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/92 05/16/95	07/01/97 04/04/98
B	Radon Emissions from Underground Uranium Mines	.....	07/01/98 06/11/99	.....	.....	.....	.....
C	Beryllium	10/14/97 05/13/98	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/92 07/31/01	07/01/97 04/04/98

TABLE II.—DELEGATION OF AUTHORITY—PART 61 NESHAP—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
D	Beryllium Rocket Motor Firing	10/14/97 12/23/98	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/92 07/31/01	07/01/97 04/04/98
E	Mercury	10/14/97 05/13/98	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/92 07/31/01	07/01/97 04/04/98
F	Vinyl Chloride	10/14/97 05/13/98	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/92 07/31/01	07/01/97 04/04/98
J	Equipment Leaks (Fugitive Emission Sources) of Benzene	10/14/97 05/13/98	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/92 07/31/01	07/01/97 04/04/98
L	Benzene Emissions from Coke By-Product Recovery Plants.	10/14/97 05/13/98	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/92 07/31/01	07/01/97 04/04/98
M	Asbestos	10/14/97 05/13/98	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/92 07/31/01	07/01/97 04/04/98
N	Inorganic Arsenic Emissions from Glass Manufacturing Plants.	10/14/97 05/13/98	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/92 07/31/01	07/01/97 04/04/98
O	Inorganic Arsenic Emissions from Primary Copper Smelters.	10/14/97 05/13/98	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/92 07/31/01	07/01/97 04/04/98
P	Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.	10/14/97 05/13/98	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/92 07/31/01	07/01/97 04/04/98
Q	Radon Emissions from Department of Energy Facilities	.....	07/01/98 06/11/99	.....	.....	.....	.....
R	Radon Emissions from Phosphogypsum Stacks	.....	07/01/98 06/11/99	.....	.....	.....	.....
T	Radon Emissions from the Disposal of Uranium Mill Tailings.	.....	07/01/98 06/11/99	.....	.....	.....	.....
V	Equipment Leaks (Fugitive Emission Sources)	10/14/97 05/13/98	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/92 07/31/01	07/01/97 04/04/98
W	Radon Emissions from Operating Mill Tailings	.....	07/01/98 06/11/99	.....	.....	.....	.....
Y	Benzene Emissions from Benzene Storage Vessels	10/14/97 05/13/98	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/92 07/31/01	07/01/97 04/04/98
BB	Benzene Emissions from Benzene Transfer Operations	10/14/97 05/13/98	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/92 07/31/01	07/01/97 04/04/98
FF	Benzene Waste Operations	10/14/97 05/13/98	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/92 07/31/01	07/01/97 04/04/98

TABLE III.—DELEGATION OF AUTHORITY—PART 63 NESHAP—REGION 7

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
A	General Provisions	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/97 04/01/98
B	Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Section 112(g) & (j).	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/00 04/02/02	....	12/27/96 04/01/98 (112 (G) only)
D	Compliance Extensions for Early Reductions of Hazardous Air Pollutants.	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	12/29/92 04/02/02	11/21/94 07/31/01	12/29/92 04/01/98
F	Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
G	Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
H	Organic Hazardous Air Pollutants for Equipment Leaks	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
I	Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.	08/16/01 04/24/02	07/01/98 06/11/99	2/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
J	Polyvinyl Chloride and Copolymers Production	.....	.....	.....	.....	.....	.....
L	Coke Oven Batteries	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	.....	.....	.....
M	Perchloroethylene Emissions from Dry Cleaning Facilities	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/00 07/10/02	07/01/00 07/31/01	07/01/97 04/01/98
N	Chromium Emissions from Hard and Decorative Chromium Electroplating Anodizing Tanks.	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/07 04/01/98

TABLE III.—DELEGATION OF AUTHORITY—PART 63 NESHAP—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
O	Ethylene Oxide Sterilization Facilities	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	
Q	Industrial Process Cooling Towers	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/97 04/01/98
R	Gasoline Distribution Facilities	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/98 04/01/98
S	Pulp and Paper MACT I and MACT III	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
T	Halogenated Solvent Cleaning	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/97 04/01/98
U	Polymers and Resins Group I	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/00 04/01/98
W	Polymers & Resins II	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/97 04/01/98
X	Secondary Lead Smelting	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/97 04/01/98
Y	Marine Tank Vessel Loading Operations	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	.....	.....	.....
AA/BB	Phosphoric Acid/Phosphate Fertilizers	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	
CC	Petroleum Refineries	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/81/97 07/31/01	.....
DD	Off-Site Waste Recovery Operations	01/20/00 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/97 04/01/98
EE	Magnetic Tape Manufacturing	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
GG	Aerospace Manufacturing and Rework Facilities	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/97 04/01/98
HH	Oil & Natural Gas Production	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
II	Shipbuilding and Ship Repair	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	.....	.....	07/01/97 04/01/98
JJ	Wood Furniture Manufacturing Operations	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/97 04/01/98
KK	Printing and Publishing Industry	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/97 04/01/98
LL	Primary Alumium Production	08/16/01 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
MM	Combustion Sources at Kraft, Soda, and Sulfite Pulp & Paper Mills.	08/16/01 04/24/02	.....	.....	07/01/01 07/10/02	.....	.....
OO	Tanks—Level	.....	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/97 04/01/98
PP	Containers	.....	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/97 04/01/98
QQ	Surface Impoundments	.....	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/97 04/01/98
RR	Individual Drain Systems or a Process	.....	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/97 04/01/98
SS	Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
TT	Equipment Leaks—Control Level 1 Standards	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
UU	Equipment Leaks—Control Level 2 Standards	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
VV	Oil-Water Separators & Organic-Water Separators	.....	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/97 04/01/98
WW	Storage Vessel (Tanks)—Control Level	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
YY	Generic MACT +	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
CCC	Steel Pickling—HLC Process	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
DDD	Mineral Wool Production	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
EEE	Hazardous Waste Combustors	08/16/01 04/24/02	.....	12/31/00 09/30/02	.....	07/01/00 07/31/01	.....
GGG	Pharmaceutical Production	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
HHH	Natural Gas Transmission and Storage	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....

TABLE III.—DELEGATION OF AUTHORITY—PART 63 NESHAP—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
III	Flexible Polyurethane Foam Production	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
JJJ	Polymers and Resins Group IV	08/16/01 04/24/02 04/24/02	07/01/98 06/11/99	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	07/01/97 04/01/98
LLL	Portland Cement Manufacturing	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
MMM	Pesticide Active Ingredient Production	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
NNN	Wool Fiberglass Manufacturing	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
OOO	Polymers & Resins III, Amino Resins/Phenolic Resins	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
PPP	Polyether Polyols-Production	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
QQQ	Primary Copper	.....	.....	.....	.....	.....	.....
RRR	Secondary Aluminum	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	.....	.....
TTT	Primary Lead Smelting	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
UUU	Petroleum Refineries	.....	.....	.....	.....	.....	.....
VVV	Publicly Owned Treatment Works	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	.....	.....
XXX	Ferroalloys Production	08/16/01 04/24/02	.....	12/31/00 09/30/02	07/01/01 07/10/02	07/01/00 07/31/01	.....
CCCC	Manufacturing Nutritional Yeast	08/16/01 04/24/02	.....	.....	07/01/01 07/10/02	.....	.....
GGGG	Solvent Extraction for Vegetable Oil Production	08/16/01 04/24/02	.....	.....	.....	07/01/01 07/10/02	.....
HHHH	Wet Formed Fiberglass Mat Production	.....	.....	.....	.....	.....	.....
NNNN	Large Applicance Surface Coating	.....	.....	.....	.....	.....	.....
SSSS	Metal Coil Surface Coating	.....	.....	.....	.....	.....	.....
TTTT	Leather Finishing Operations	.....	.....	.....	.....	.....	.....
UUUU	Cellulose Products Manufacturing	.....	.....	.....	.....	.....	.....
VVVV	Boat Manufacturing	08/16/01 04/24/02	.....	.....	.....	.....	.....
XXXX	Tire Manufacturing	.....	.....	.....	.....	.....	.....

Summary of This Action

All sources subject to the requirements of 40 CFR Parts 60, 61, and 63 are also subject to the equivalent requirements of the above-mentioned state or local agencies.

This notice informs the public of delegations to the above-mentioned agencies of the above-referenced Federal regulations.

Authority: This notice is issued under the authority of sections 101, 110, 112, and 301 of the CAA, as amended (42 U.S.C. 7401, 7410, 7412, and 7601).

Dated: November 12, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 02–29606 Filed 11–20–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 02–243]

Compliance with Federal Financial Management Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document revises the Commission's rules to require any Bureau or Office recommending action to the Commission or taking action under delegated authority on any matter that may affect compliance with Federal financial management requirements, to confer with the Office of the Managing Director.

DATES: November 21, 2002.

FOR FURTHER INFORMATION CONTACT: Regina Dorsey at 202–418–1993.

SUPPLEMENTARY INFORMATION: To better assure comprehensive and consistent management of the agency's financial responsibilities and compliance with all Federal financial management requirements, including the Federal Debt Collection Act and implementing regulations adopted by the Department of Justice and the Department of Justice, the Federal Financial Management Improvement Act of 1996 (FFMIA), the Federal Managers Financial Integrity Act of 1982 (FMFIA), the Government Management Reform Act of 1994 (GRMA), the Information Technology Management Reform Act of 1996 (ITMRA), the Federal Credit Reform Act of 1990 (FCRA), the Federal Acquisition Regulation (FAR), and the Government Performance and Results Act of 1993, and others, the Commission thinks it necessary and prudent to involve the Office of the Managing Director in any such matters. The Commission's Managing Director currently has responsibility for overseeing Commission financial management activities, including compliance with the foregoing requirements, as well as

the responsibility for advising the Commission on management implications of Commission and Bureau actions. *See* 47 CFR 0.11(a)(4), (8). As such, in this order, we amend section 0.5 of the Commission's rules, 47 CFR 0.5, to require any Bureau or Office recommending Commission action or taking action under delegated authority on any matter that may affect compliance with Federal financial management requirements to confer with the Office of the Managing Director. Upon forwarding any such item to the Commission the Office or Bureau must indicate the position of the Managing Director. The amended rule will not, however, affect the existing authority of the various Bureaus and Offices over substantive regulatory matters associated with their programs. *See* 47 CFR 0.11(a)(1)

The rule amendments adopted herein involve rules of agency organization, procedure, or practice, and the notice and comment and effective date provisions of the Administrative Procedure Act are therefore inapplicable. 5 U.S.C. 553(b)(A), (d).

Accordingly, it is ordered, that pursuant to sections 4(i), 4(j), 5(c), 303(r), 47 U.S.C. 4(i), 4(j), 5(c), 303(r), 47 CFR part 0 is amended as set forth below, effective November 21, 2002.

List of Subjects in 47 CFR Part 0

Organization and functions (government agencies).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 0 as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Section 0.5 is amended by adding paragraph (e) to read as follows:

§ 0.5 General Description of Commission organization and operations.

* * * * *

(e) *Compliance with Federal financial management requirements.* Any Bureau or Office recommending Commission action that may affect agency compliance with Federal financial management requirements must confer with the Office of Managing Director. Such items will indicate the position of the Managing Director when forwarded to the Commission. Any Bureau or Office taking action under delegated authority that may affect agency compliance with Federal financial management requirements must confer with the Office of the Managing Director before taking action.

[FR Doc. 02–29581 Filed 11–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–3090, MM Docket No. 01–208, RM–10205]

Digital Television Broadcast Service; Harrisburg, PA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Harrisburg Television, Inc, licensee of station WHTM–TV, substitutes DTV channel 10 for DTV channel 57 at Harrisburg. *See* 66 FR 47904, September 14, 2001. DTV channel 10 can be allotted to Harrisburg, Pennsylvania, in compliance with the principle community coverage requirements of section 73.625(a) at reference coordinates 40–18–57 N. and 76–57–02 W. with a power of 14, HAAT of 346 meters and with a DTV service population of 1793 thousand. Since the community of Harrisburg is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government has been obtained for this allotment. With this action, this proceeding is terminated.

DATES: Effective December 30, 2002.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–208, adopted November 7, 2002, and released November 15, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Pennsylvania, is amended by removing DTV channel 57 and adding DTV channel 10 at Harrisburg.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–29574 Filed 11–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–3089, MB Docket No. 02–219, RM–10506]

Digital Television Broadcast Service; Lawton, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of KSWO Television Company, Inc., substitutes DTV channel 11 for DTV channel 23 at Lawton, Oklahoma. *See* 67 FR 52922, August 14, 2002. DTV channel 11 can be allotted to Lawton, Oklahoma, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 34–12–55 N. and 98–43–13 W. with a power of 138, HAAT of 327 meters and with a DTV service population of 431 thousand. With this action, this proceeding is terminated.

DATES: Effective December 30, 2002.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 02–219, adopted November 7, 2002, and released November 15, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference

Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

PART 73— [AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Oklahoma, is amended by removing DTV channel 23 and adding DTV channel 11 at Lawton.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–29575 Filed 11–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–3092, MM Docket No. 02–00–125, RM–9908]

Digital Television Broadcast Service; Miami, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of NBC Stations Management, Inc., licensee of station WTVJ(TV), substitutes DTV channel 31 for DTV channel 30 at Miami. *See* 65 FR 4407, July 17, 2000. DTV channel 31 can be allotted to Miami, Florida, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 25–58–07 N. and 80–13–20 W. with a power of 1000, HAAT of 318 meters and with a DTV service population of 3995 thousand. With this action, this proceeding is terminated.

DATES: Effective December 30, 2002.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–125, adopted November 7, 2002, and released November 15, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Florida, is amended by removing DTV channel 30 and adding DTV channel 31 at Miami.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–29576 Filed 11–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–3091, MB Docket No. 02–221, RM–10519]

Digital Television Broadcast Service; Wailuku, HI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of LeSea Broadcasting Corporation, substitutes DTV channel 45 for DTV channel 20 at Wailuku, Hawaii. *See* 67 FR 52922, August 14, 2002. DTV channel 45 can be allotted to Wailuku in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 20–40–58 N. and 156–19–07 W. with a power of 87, HAAT of 1298 meters and with a DTV service population of 113 thousand. With this action, this proceeding is terminated.

DATES: Effective December 30, 2002.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 02–221, adopted November 7, 2002, and released November 15, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Hawaii, is amended by removing DTV channel 20 and adding DTV channel 45 at Wailuku.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–29578 Filed 11–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–3154, MM Docket No. 00–180, RM–9956]

Digital Television Broadcast Service; Fort Myers, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Fort Myers Broadcasting Company, substitutes DTV channel 9 for DTV channel 53 at Fort Myers. *See* 65 FR 59389, October 5, 2000. DTV channel 9 can be allotted to Fort Myers, Florida, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 26–48–01 N. and 81–45–47 W., with a power of 20, HAAT of 451 meters and with a DTV service population of 1134 thousand. With this action, this proceeding is terminated.

DATES: Effective January 6, 2003.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–180, adopted November 14, 2002, and released November 20, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Florida, is amended by removing DTV channel 53 and adding DTV channel 9 at Fort Myers.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–29686 Filed 11–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–2815; MM Docket Nos. 01–263, 01–264, 01–265, 01–266, 01–267; RM Nos. 10281, 10282, 10283, 10284, 10285]

Radio Broadcasting Services; Arkadelphia, Arkansas; Aspermont, Texas; Chino Valley, Arizona; Cotulla, Texas; Junction, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Audio Division allots new channels to Arkadelphia, AR, Aspermont, TX, Chino Valley, AZ, Cotulla, TX and Junction, TX in a multiple docket Report and Order. At the request of Maurice Salsa, Channel 292A is allotted at Junction, Texas, as the community's second commercial FM transmission service. Channel 292A is allotted at Junction without a site restriction at coordinates 30–29–21 NL and 99–46–18 WL. Mexican concurrence has been received for this allotment. At the request of Charles Crawford, Channel 223A is allotted at Chino Valley, Arizona as the community's second commercial FM transmission service. Channel 223A is allotted at Chino Valley at a site 6 kilometers (3.7 miles) west of the community at coordinates 34–46–10 NL and 112–31–03 WL. Mexican concurrence has been requested for this allotment. At the request of Charles Crawford, Channel 228A is allotted at Arkadelphia, Arkansas, as the community's second commercial FM transmission service. Channel 228A is allotted at Arkadelphia with a site restriction of 11.5 kilometers (7.2 miles) west of the community at coordinates 34–07–10 NL and 93–10–43 WL. *See* **SUPPLEMENTARY INFORMATION**.

DATES: Effective December 9, 2002.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, as follows: Maurice Salsa, 5616 Evergreen Valley Drive, Kingwood, TX 77345 (petitioner for Junction, TX); Charles Crawford, 4553 Bordeaux Ave., Dallas, TX 75205 (petitioner for Chino Valley, AZ and Arkadelphia, AR); Jeraldine Anderson, 1702 Cypress Drive, Irving, TX 75061 (petitioner for Aspermont, TX and Cotulla, TX) .

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket Nos. 01–263, 01–264, 01–265, 01–266, and 01–267, adopted October 16, 2002, and released October 25, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

At the request of Jeraldine Anderson, Channel 226C2 is allotted at Aspermont, Texas, as the community's first local aural transmission service. Channel 226C2 is allotted at Aspermont with a site restriction of 6.7 kilometers (4.1 miles) at coordinates 33–11–27 NL and 100–14–50 WL.

At the request of Jeraldine Anderson, Channel 289A is allotted at Cotulla, Texas, as the community's second local aural service. Channel 289A is allotted at Cotulla with a site restriction of 5.0 kilometers (3.1 miles) southwest of the community at coordinates 28–24–57 NL and 99–16–49 WL. Mexican concurrence has been received for this allotment.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR § 1.1204(b) for rules governing permissible *ex parte* contacts.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Channel 223A at Chino Valley.

3. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by adding Channel 228A at Arkadelphia.

4. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Aspermont, Channel 226C2, Channel 289A at Cotulla, and Channel 292A at Junction.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 02–29579 Filed 11–20–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 021107268–2268–01; I.D. 102402A]

RIN 0648–AQ54

Taking and Importing Marine Mammals; Taking of Marine Mammals Incidental to Power Plant Operations

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

ACTION: Final rule.

SUMMARY: NMFS is amending the regulations governing the unintentional take of small numbers of seals incidental to routine operations of the Seabrook Station nuclear power plant, Seabrook, NH. The purpose of this amendment is to replace the power plant's official owner/operator's name with a generic owner/operator designation. The technical amendment will also remove mitigation measures that are no longer applicable to the owner/operator of the Seabrook Station nuclear power plant.

DATES: Effective November 21, 2002.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, NMFS, 301–713–2055, ext 128, or David Gouveia, Northeast Regional Office, NMFS, 978–281–9280.

SUPPLEMENTARY INFORMATION:

Background

A final rule authorizing the unintentional take of small numbers of harbor seals (*Phoca vitulina*), gray seals (*Halichoerus grypus*), harp seals (*Phoca groenlandica*), and hooded seals (*Cystophora cristata*) incidental to the routine operation of the Seabrook Station nuclear power plant was issued for the North Atlantic Energy Services Corporation (NAESC) on May 25, 1999 (64 FR 28114). That final rule put in place the regulations found at § 216.132, which state that under a Letter of Authorization (LOA) the NAESC, specifically, may incidentally but not intentionally, take marine mammals in the course of operating the station's intake cooling water system while in possession of a valid LOA issued by NMFS. The regulations also require that the LOA holder report, within 6 months from the issuance of a final rule, to the Administrator, Northeast Region, NMFS on possible mitigation measures effecting the least practicable adverse impacts on seals.

Need for Correction

Subsequent to the publication of the final rule, a tentative sale agreement was reached between the NAESC and the FPL Energy Seabrook, LLC, for the Seabrook Station nuclear power plant. The closing date for the sale of the Seabrook Station nuclear power plant is tentatively scheduled for the fall of 2002. As noted above, the regulations authorizing the unintentional take of seals specifically names the NAESC as the owner. Since the sale of the power plant is imminent, this action will change the regulatory language regarding the power plant ownership to a generic owner/operator designation.

In addition, the final rule contains a reporting requirement and a schedule for implementation of mitigation measures, which are no longer applicable to the owner/operator of the Seabrook Station nuclear power plant. Specifically, § 216.134 requires NAESC to issue a report to NMFS by January 2000 regarding possible mitigation measures to address any adverse impacts on seals. The report was generated and the recommended mitigation measure (installation of seal deterrent barriers on all three cooling water system intakes) was completed prior to January 2000; therefore, this amendment will remove this reporting requirement and implementation schedule since NAESC has already complied with this requirement. Consequently, this final rule corrects the regulatory language to reflect the fact that this reporting requirement and schedule are no longer applicable, by reserving § 216.134 and removing cross-references to that section in § 216.135(i) and § 216.136(a)(3).

Classification

The Assistant Administrator for Fisheries (AA) finds that providing prior notice and opportunity to comment on this final rule is unnecessary, because the rule merely removes the specific name of the power plant's owner/operator, inserts a generic designation in its place, removes the requirement that has already been complied with and has no future effect, and removes cross-references to that former section. This action does not change the number of regulated entities, nor does it create new requirements or relieve any current restrictions. Therefore, the AA, under 5 U.S.C. 553(b)(B), finds good cause exists to waive requirements for prior notice and opportunity for comment. Also, because this final rule does not impose any new requirements on entities subject to these regulations, it is not a substantive rule subject to a 30–day delay in effective date under 5 U.S.C. 553(d).

This final rule is exempt from review under Executive Order 12866.

Because prior notice and opportunity for public comment are not required for this final rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Dated: November 16, 2002.

Rebecca Lent,

Deputy Assistant Administrator National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 216 is amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. Section 216.132 is revised to read as follows:

§ 216.132 Permissible methods of taking.

Under a Letter of Authorization issued to the owner/operator of Seabrook Station nuclear power plant, the owner/operator may incidentally but not intentionally, take marine mammals specified in § 216.130 in the course of operating the station's intake cooling water system.

§ 216.134 [Reserved]

3. Section 216.134 is removed and reserved.

§ 216.135 [Amended]

4. In § 216.135, paragraph (i) is removed.

5. In § 216.136, paragraph (a) is revised.

§ 216.136 Renewal of the Letter of Authorization.

(a) A Letter of Authorization issued under § 216.106 for the activity identified in § 216.130(a) may be renewed annually provided the following conditions and requirements are satisfied:

(1) Timely receipt of the reports required under § 216.135, which have been reviewed by the Administrator, Northeast Region, NMFS, and determined to be acceptable; and

(2) A determination that the maximum incidental take authorizations in § 216.130(b) will not be exceeded.

* * * * *

[FR Doc. 02–29683 Filed 11–20–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 225
Thursday, November 21, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV02–989–7 PR]

Raisins Produced From Grapes Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Raisin Administrative Committee (Committee) for the 2002–03 and subsequent crop years from $6.50 to $8.00 per ton of free tonnage raisins acquired by handlers, and reserve tonnage raisins released or sold to handlers for use in free tonnage outlets. The Committee locally administers the Federal marketing order which regulates the handling of raisins produced from grapes grown in California (order). Authorization to assess raisin handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The crop year runs from August 1 through July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by December 2, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or E-mail: *moab.docketclerk@usda.gov.* 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: Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

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 and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California raisin handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable raisins beginning on August 1, 2002, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule would increase the assessment rate established for the Committee for the 2002–03 and subsequent crop years from $6.50 to $8.00 per ton of free tonnage raisins acquired by handlers, and reserve tonnage raisins released or sold to handlers for use in free tonnage outlets. The order authorizes volume control provisions that establish free and reserve percentages for raisins acquired by handlers. Free tonnage raisins may be sold by handlers to any outlet, and reserve tonnage raisins are held by handlers for the account of the Committee or released or sold to handlers for sale to free tonnage outlets. Reserve raisins held for the account of the Committee are not assessable. With projected assessable tonnage about 81,000 tons less than last year's assessable tonnage, sufficient income should be generated at the higher assessment rate for the Committee to meet its anticipated expenses. This action was recommended by the Committee at a meeting on July 24, 2002.

Sections 989.79 and 989.80, respectively, of the order provide authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California raisins. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget and

assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

A continuous assessment rate of $6.50 per ton has been in effect since the 2000–01 crop year. For the 2002–03 crop year, the Committee recommended increasing the assessment rate to $8.00 per ton of assessable raisins to cover recommended administrative expenditures of $1,912,000. This compares to budgeted expenses of $2,080,000 for the 2001–02 crop year. Major expenditures include $663,000 for export program administration and related activities, $500,000 for salaries, $164,800 for contingencies, and $160,000 for compliance activities. Budgeted expenses for these items in 2001–02 were $662,500, $500,000, $303,500, and $220,000, respectively.

The recommended $8.00 per ton assessment rate was derived by dividing the $1,912,000 in anticipated expenses by an estimated 239,000 tons of assessable raisins. The Committee recommended increasing its assessment rate because the projected 2002–03 assessable tonnage of 239,000 tons is 81,000 tons lower than last year's assessable tonnage. Sufficient income should be generated at the higher assessment rate for the Committee to meet its anticipated expenses. Pursuant to § 989.81(a) of the order, any unexpended assessment funds from the crop year must be credited or refunded to the handlers from whom collected.

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

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

Initial Regulatory Flexibility Analysis

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

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

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

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2002–03 and subsequent crop years from $6.50 to $8.00 per ton of assessable raisins acquired by handlers. The Committee recommended 2002–03 expenditures of $1,912,000. Major expenditures include $663,000 for export program administration and related activities, $500,000 for salaries, $164,800 for contingencies, and $160,000 for compliance activities. Budgeted expenses for these items in 2001–02 were $662,500, $500,000, $303,500, and $220,000, respectively. With anticipated assessable tonnage at 239,000 tons, about 81,000 tons lower than last year's assessable tonnage, sufficient income should be generated at the $8.00 per ton assessment rate to meet expenses. Pursuant to § 989.81(a) of the order, any unexpended assessment funds from the crop year must be credited or refunded to the handlers from whom collected.

The industry considered various alternative assessment rates prior to arriving at the $8.00 per ton recommendation. The Committee's Audit Subcommittee met on July 24, 2002, to review preliminary budget information. The subcommittee was aware that the full Committee would be meeting later that day to consider actions that would impact the 2002 free tonnage percentage and, thus, the quantity of 2002 assessable tonnage. The Audit Subcommittee considered assessment rates of $7.50 and $8.00 per ton based on varying levels of assessable tonnage. Ultimately, the full Committee adopted the subcommittee's recommendation of $8.00 per ton based on 239,000 tons of assessable tonnage.

A review of statistical data on the California raisin industry indicates that assessment revenue has consistently been less than one percent of grower revenue in recent years. Although no official estimates or data are available for the upcoming season, it is anticipated that assessment revenue will likely continue to be less than one percent of grower revenue in the 2002–03 crop year, even with the increased assessment rate.

Regarding the impact of this action on affected entities, this action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order.

Additionally, the Audit Subcommittee and full Committee meetings held on July 24, 2002, where this action was deliberated were public meetings widely publicized throughout the California raisin industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations. Finally, all interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large raisin handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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.

A 10-day comment period is provided to allow interested persons to respond to this proposed rule. Ten days is deemed appropriate because a final decision on increasing the rate as proposed should be made by mid-November. This is when the Committee is anticipated to begin billing handlers for assessments.

List of Subjects in 7 CFR Part 989

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

For the reasons set forth in the preamble, 7 CFR part 989 is proposed to be amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 989.347 is revised to read as follows:

§ 989.347 Assessment rate.

On and after August 1, 2002, an assessment rate of $8.00 per ton is established for assessable raisins produced from grapes grown in California.

Dated: November 14, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–29600 Filed 11–18–02; 4:50 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 60, 61, 63, 141, and 142

[Docket No. FAA–2002–12461; Notice No. 02–11]

RIN 2120–AH07

Flight Simulation Device Initial and Continuing Qualification and Use

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of on-line public forum.

SUMMARY: On September 25, 2002, the FAA published a notice of proposed rulemaking (NPRM), which proposes requirements to establish flight simulation device qualification requirements in a new part. (67 FR 60284; Notice No. 02–11). The comment period closes on February 24, 2003. To supplement the traditional comment period, we are announcing an on-line public forum, allowing you to answer specific questions we will ask on the Internet. We are offering the forum to assist us in providing a clear and comprehensive final rule. You can continue to submit comments to the docket during the public forum, as outlined below and in the NPRM.

DATES: You may access the on-line public forum beginning December 2, 2002, at 9 a.m. e.s.t. until December 13, 2002, at 4:30 p.m. e.s.t.

ADDRESSES: You may access the on-line public forum at *http://www2.faa.gov/avr/arm/rulemakingforum.cfm?nav=part.* Under the ''View Docket/Comments'' column, click once on ''Enter Public Forum.'' Follow the instructions to access the questions.

If you are unable to participate in the on-line public forum and wish to submit written comments, address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh St., SW., Washington, DC 20590–0001. You must identify the docket number FAA–2002–12461 at the beginning of your comments, and you should submit two copies of your comments.

You may 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 at the Department of Transportation building at the address above. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Edward Cook, National Simulator Program Staff (AFS–205), Flight Standards Service, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; telephone (404) 305–6100.

SUPPLEMENTARY INFORMATION

On-Line Public Forum

We are soliciting on-line discussion and written comments on the questions below. You will be able to read the questions on-line and submit your answers and comments electronically. We will monitor your responses throughout the 2-week forum and may ask you clarifying questions. While we have selected topics that we are particularly interested in, we still welcome all of your comments and suggestions. We will not make any commitments or draw any conclusions while the docket is open for public comment.

On-Line Questions

The questions that will appear on the Internet for the on-line public forum are as follows:

1. The FAA would like to assist any reader who may have had difficulty understanding the proposed rule. If you need clarification on the proposed rule (in general or in a specific section), please describe what you would like clarified here.

Note: We will exert every effort to post our reply below your description in as short a time as possible.

2. The FAA seeks the public's opinion on the format of the part 60 appendices ''A'' through ''D.'' Specifically, does this format aid the reader in determining the context of the material being read (*i.e.*, awareness that the text is rule language, additional requirements, or information)? If not, what are your recommendations for modifying the format?

3. The FAA seeks the public's recommendations for additions, modifications, and/or deletions to the definitions of terms used in the proposed rule (as found in the dedicated section of the rule and the dedicated attachment in each appendix to the rule). The recommendations we are seeking are strictly to make the proposed rule clearer.

4. The FAA seeks the public's opinion on where the National Simulator Program (NSP) should publish the Statement of Qualification?* The options are as follows:

(a) Shared with the public on the NSP's Internet website;

(b) Shared only among NSP staff, FAA personnel (for example, Principal Operations Inspector (POI) or Training Center Program Manager (TCPM)) and the sponsor; or

(c) Shared only between NSP staff and the sponsor.

* **Note:** The Statement of Qualification consists of the following three parts:

(a) *A Certificate*—names the sponsor; the aircraft being simulated; the category of Flight Simulation Device (FSD); the FAA identification number; and the qualification level for the device.

(b) *A Configuration List*—outlines the aircraft configuration; types of visual, motion, or other simulator systems installed; the aircraft equipment being simulated; alternative configurations available for engines, instrumentation, and other equipment; and includes the date each above item was qualified.

(c) *Qualifications/Restrictions to Qualifications List*—lists the flight tasks flown by the sponsor (or the sponsor's representative) in preparation for the sponsor's request for initial evaluation (*see* § 60.15). It also lists and describes the flight tasks and the Flight Simulation Device (FSD) systems for which qualification is or is not originally sought and is or is not granted.

5. The FAA seeks the public's opinion on whether to continue the practice of ''grandfathering.'' Please include whether this practice should have an end point either in general or for some specific aspects of the practice. If you believe ''grandfathering'' should be discontinued, include suggestions on the conditions for instituting an end point.

Note: The term ''grandfathering'' is used to allow standards, in effect at the time of original qualification of a specific Flight Simulation Device (FSD), to continue to apply to that specific FSD regardless of subsequent modification to those standards. This provision addresses areas such as visual systems, motion systems, aerodynamic data, required tests, and individual test tolerances.

6. The FAA seeks the public's opinion on whether the current list of objective tests is practicable and viable and on whether this list may be modified by either reducing or expanding the number of objective tests. The resulting list of tests must not compromise the overall objective review of the performance and handling of the simulator in comparison to the simulated airplane.

7. The FAA seeks the public's opinion on the effectiveness of using an Internet website (to discuss aspects of flight simulation device evaluation and qualification and explain National Simulator Program (NSP) policy and/or the proposals and suggestions for alteration of those policies). Do you have additional suggestions on how FAA's communication with the aviation industry and the public in general may be promoted through this or similar media?

8. Please identify which affiliation you are associated with.

Note: Select one of the following categories:

(a) Airlines or Training Centers.
(b) Pilots or Pilot Organizations.
(c) Simulator or FTD Manufacturers.
(d) Airplane Manufacturers.
(e) Academic Institutions.
(f) U.S. Agencies (such as NASA, NTSB, Customs, *etc.*).
(g) U.S. or Foreign Military.
(h) Foreign Regulatory Authorities.
(i) Other.

Issued in Washington, DC, on November 15, 2002.

Anthony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. 02–29646 Filed 11–18–02; 3:50 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–47–AD]

RIN 2120–AA64

Airworthiness Directives; Hartzell Propeller Inc. Model HC–C2Y(K,R)–1BF/F8477–4 Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to certain Hartzell Propeller Inc. model HC–C2Y(K,R)–1BF/F8477–4 propellers with TKS (Aircraft De-icing) Ltd. anti-ice boots that were installed by SOCATA-Groupe AEROSPATIALE, the aircraft manufacturer, using TKS Ltd. Procedure P232, Specification for the Attachment of Propeller Overshoes. This proposal would require removal of the anti-ice boots, rework of the anti-ice boot area of the propeller blades, and installation of new anti-ice boots. This proposal is prompted by a report of TKS (Aircraft De-icing) Ltd. anti-ice boots on the blades of a model HC–C2Y(K,R)–1BF/F8477–4 propeller that were installed by SOCATA-Groupe AEROSPATIALE using processes that could lead to blade corrosion and failure. The actions specified by the proposed AD are intended to prevent propeller blade separation, damage to the airplane, and possible loss of the airplane.

DATES: Comments must be received by January 21, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–47–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov.* Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in the proposed rule may be obtained from Hartzell Propeller Inc. Technical Publications Department, One Propeller Place, Piqua, OH 45356; telephone (937) 778–4200; fax (937) 778–4391. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Tomaso DiPaolo, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone (847) 294–7031; fax (847) 294–7834.

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NE–47–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–47–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The FAA received a report of a Hartzell Propeller Inc. model HC–C2Y(K,R)–1BF/F8477–4 propeller that was returned to Hartzell Propeller Inc. for correction of a service problem. SOCATA-Groupe AEROSPATIALE, the aircraft manufacturer, had installed TKS (Aircraft De-icing) Ltd. anti-ice boots onto the propeller blades as specified in TKS Ltd. Procedure P232, Specification for the Attachment of Propeller Overshoes. Procedure P232 calls for the removal of both the paint and anodized coating from the blades where the anti-ice boots attach. In addition, the process used by SOCATA included the use of scribe lines to outline the anti-ice boot area on the blade and the scribe lines were not subsequently removed. The removal of paint and anodized coating can lead to corrosion of the propeller blade under the boot and could result in blade failure. Scribe lines in the blade metal can produce a stress riser condition on the blade, and could result in blade failure. The FAA has concluded that about 230 other propellers in the U.S. might be affected with anti-ice boots installed in this fashion. This condition, if not corrected, could result in propeller blade separation, damage to the airplane, and possible loss of the airplane.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of Hartzell Propeller Inc. Alert Service Bulletin (ASB) HC–ASB–61–251, dated April 10, 2001, that describes procedures for inspection and rework of model HC–C2Y(K,R)–1BF/F8477–4 propellers with TKS (Aircraft De-icing) Ltd. anti-ice boots.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other model HC–C2Y(K,R)–1BF/F8477–4 propellers of the same type design with TKS (Aircraft De-icing) Ltd. anti-ice boots that were installed by SOCATA-Groupe AEROSPATIALE, the aircraft manufacturer, using TKS Ltd. Procedure P232, Specification for the Attachment of Propeller Overshoes, the proposed AD would require inspection and rework of model HC–C2Y(K,R)–1BF/F8477–4 propellers with TKS (Aircraft De-icing) Ltd. anti-ice boots installed. The actions would be required to be done in accordance with the ASB described previously, except using the compliance schedule in the proposed AD.

Economic Analysis

There are approximately 750 Hartzell Propeller Inc. model HC–C2Y(K,R)–1BF/F8477–4 propellers with TKS (Aircraft De-icing) Ltd. anti-ice boots installed by SOCATA-Groupe AEROSPATIALE, the aircraft manufacturer, using TKS Ltd. Procedure P232, Specification for the Attachment of Propeller Overshoes. The FAA estimates that 230 propellers installed on airplanes of U.S. registry would be affected by this proposed AD. The FAA also estimates that it would take approximately 10 work hours per propeller to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $900 per propeller. Based on these figures, the total cost of the proposed AD on U.S. operators is estimated to be $345,000.

Regulatory Analysis

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Hartzell Propeller Inc.: Docket No. 2001–NE–47–AD.

Applicability: This airworthiness directive (AD) is applicable to Hartzell Propeller Inc. model HC–C2Y(K,R)–1BF/F8477–4 propellers with TKS (Aircraft De-icing) Ltd. anti-ice boots that were installed by SOCATA-Groupe AEROSPATIALE, the aircraft manufacturer, using TKS Ltd. Procedure P232, Specification for the Attachment of Propeller Overshoes. These propellers are installed on, but not limited to American Champion 8GCBC, Cessna 170 series, 172 series, 175 series, Piper PA–18 series, Sky International Inc. (Husky) A–1 (previous owners were Christen Industries; Aviat, Inc.; White International, LTD.), and SOCATA-Groupe AEROSPATIALE TB–20 and TB–21 airplanes.

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

Compliance: Compliance with this AD is required as indicated, unless already done.

To prevent propeller blade separation, damage to the airplane, and possible loss of the airplane, do the following:

(a) For propellers that have been overhauled after the installation of TKS (Aircraft De-icing) Ltd. Anti-ice boots, and have had the anti-ice boots re-installed using Hartzell Manual 133C (ATA 61–13–33) ''Aluminum Blade Overhaul'', AS&T Procedure 4700INS, or other approved procedures (excluding TKS Procedure P232) no further action is required.

(b) For propellers that have had the anti-ice boots installed using the TKS Procedure P232, but have not had anti-ice boots re-installed using Hartzell Manual 133C (ATA 61–13–33) ''Aluminum Blade Overhaul'', AS&T Procedure 4700INS or other approved procedures (excluding TKS Procedure P232), remove anti-ice boots, rework anti-ice boot areas of propeller blades, and install new anti-ice boots in accordance with paragraph 3 of the Accomplishment Instructions of Hartzell Propeller Inc. Alert Service Bulletin (ASB) HC–ASB–61–251, dated April 10, 2001

using the compliance schedule in Table 1 as follows:

TABLE 1.—COMPLIANCE SCHEDULE

For propellers with—	Replace anti-ice boots—
(1) Fewer than 500 hours time-in-service (TIS) and fewer than 3 years time-since-new (TSN).	Within 200 hours TIS from the effective date of this AD, not to exceed 600 hours TSN, or prior to accumulating 4 years TSN, whichever occurs first.
(2) Five hundred or more hours TIS, or 3 years or more TSN but less than 6 years TSN.	Within 100 hours TIS, or 1 year from the effective date of this AD, whichever occurs first.
(3) Six years or more TSN	Within 50 hours TIS, or within 6 months from the effective date of this AD, whichever occurs first.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Burlington, Massachusetts, on November 15, 2002.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–29676 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–47–AD]

RIN 2120–AA64

Airworthiness Directives; Piaggio Aero Industries S.p.A. Model P–180 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Piaggio Aero Industries S.P.A. (Piaggio) Model P–180 airplanes. This proposed AD would require you to install a placard on the inside of the lavatory door that prohibits occupying the lavatory seat during takeoff and landing. This proposed AD also requires you to incorporate a temporary revision into the Limitations Section of the pilot operating handbook/airplane flight manual (POH/AFM). This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Italy. The actions specified by this proposed AD are intended to prevent passengers from occupying the lavatory seat during takeoff and landing. The lavatory/cabin partition could fail and lead to passenger injury in an emergency situation.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before January 13, 2003.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–47–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9–ACE–7–Docket@faa.gov.* Comments sent electronically must contain ''Docket No. 2002–CE–47–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from Piaggio Aero Industries S.p.A, Via Cibrario 4, 16154 Genoa, Italy; telephone: +39 010 6481 856; facsimile: +39 010 6481 374. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This Proposed AD?

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of This Proposed AD I Should Pay Attention to?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How Can I Be Sure FAA Receives My Comment?

If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2002–CE–47–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

The Ente Nazionale per l' Aviazione Civile (ENAC), which is the airworthiness authority for Italy, recently notified FAA of a manufacturing/installation defect on the lavatory/cabin partitions on certain Piaggio model P–180 airplanes. The lavatory/cabin partitions were installed improperly and are not of sufficient strength. This condition was found during a quality control inspection.

If the lavatory seat is occupied during takeoff or landing, the lavatory/cabin partition could fail and lead to passenger injury.

What Are the Consequences if the Condition Is Not Corrected?

Occupying the lavatory seat during takeoff or landing could result in failure of the lavatory/cabin partition. Such failure could result in passenger injury in an emergency situation.

Is There Service Information That Applies to This Subject?

Piaggio has issued Alert Service Bulletin No. ASB–80–0164, Original Issue: September 10, 2001, and PIAGGIO Service Bulletin (Recommended) No. SB–80–0165, Original Issue: September 10, 2001.

What Are the Provisions of This Service Information?

These service bulletins include procedures for:

—Installing a placard on the inside of the lavatory door that prohibits occupying the lavatory seat during takeoff and landing;

—Incorporating a temporary revision into the Limitations Section of the pilot operating handbook/airplane flight manual (POH/AFM); and

—Modifying the lavatory/cabin partition.

What Action Did the ENAC Take?

The ENAC classified this service bulletin as mandatory and issued Italian AD Number 2001–513, dated November 30, 2001, in order to ensure the continued airworthiness of these airplanes in Italy.

Was This in Accordance With the Bilateral Airworthiness Agreement?

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

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

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

What Has FAA Decided?

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

—The unsafe condition referenced in this document exists or could develop on other PIAGGIO Model P–180 airplanes of the same type design that are on the U.S. registry;

—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and

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

What Would This Proposed AD Require?

This proposed AD would require you to:

—Install a placard on the inside of the lavatory door that prohibits occupying the lavatory seat during takeoff and landing; and

—Incorporate a temporary revision into the Limitations Section of the pilot operating handbook/airplane flight manual (POH/AFM).

Cost Impact

How Many Airplanes Would This Proposed AD Impact?

We estimate that this proposed AD affects 12 airplanes in the U.S. registry.

What Would Be the Cost Impact of This Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the proposed installation of the placard:

Labor Cost	Parts Cost	Total Cost Per Airplane	Total Cost on U.S. Operators
1 workhour × $60 = $60	$20	$80	12 × $80 = $960.

Compliance Time of This Proposed AD

What Would Be the Compliance Time of This Proposed AD?

The compliance time of this proposed AD is ''within the next 30 days after the effective date of this AD, unless already accomplished.''

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

The compliance of this proposed AD is presented in calendar time instead of hours TIS because the lavatory/cabin partitions are unsafe as a result of an improper installation. The unsafe condition has the same chance of occurring on an airplane with 50 hours TIS as it would for an airplane with 1,000 hours TIS. Therefore, we believe that a compliance time of 30 days will:

—Ensure that the unsafe condition does not go undetected for a long period of time on the affected airplanes; and

—Not inadvertently ground any of the affected airplanes.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

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 proposed rule would not have federalism implications under Executive Order 13132.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 has been placed 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, under 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. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Piaggio Aero Industries S.p.A.: Docket No. 2002–CE–47–AD

(a) *What airplanes are affected by this AD?* This AD affects Model P–180 airplanes, serial numbers 1002, 1004, 1006 through 1037,1039,1040, 1042, 1043, and 1045, that are:

(1) Equipped with a toilet seat; and

(2) are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent passengers from occupying the lavatory seat during takeoff and landing. The lavatory/cabin partition could fail and lead to passenger injury in an emergency situation.

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

Actions	Compliance	Procedures
(1) Fabricate a placard that incorporates the following words (using at least ¼-inch black letters on a white background) and install this placard on the inside of the lavatory door in front of the lavatory seat: ''LAVATORY SEAT CANNOT BE OCCUPIED DURING TAKEOFF AND LANDING''.	Within the next 30 days after the effective date of this AD, unless already accomplished.	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may fabricate and install the placard. Make an entry into the aircraft records showing compliance with these portions of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(2) Incorporate into the Limitations Section of the pilot operating handbook/airplane flight manual (POH/AFM), page 4 of Piaggio Alert Service Bulletin No. ASB–80–0164, Original Issue: September 10, 2001.	Within the next 30 days after the effective date of this AD, unless already accomplished.	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may accomplish the POH/AFM manual insertion of this AD. Make an entry into the aircraft records showing compliance with these portions of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(3) As an alternative method of compliance to this AD, you may modify the lavatory/cabin partition.	At any time as terminating action for the placard and POH/AFM requirements of this AD.	In accordance with Piaggio Service Bulletin (Recommended) No. SB–80–0165, Original Issue: September 10, 2001.

Note 1: Information about fabricating and installing the placard and the POH/AFM manual insertion is referenced in Piaggio Alert Service Bulletin No. ASB–80–0164, Original Issued: September 10, 2001.

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

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

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

Note 2: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

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

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Piaggio Aero Industries S.p.A, Via Cibrario 4, 16154 Genoa, Italy; telephone: +39 010 6481 856; facsimile: +39 010 6481. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in Italian AD Number 2001–513, dated November 30, 2001.

Issued in Kansas City, Missouri, on November 14, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–29677 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–334–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all

Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes. This proposal would require repetitive inspections for discrepancies of the internal fuselage skin panels located in the stub wing areas; and corrective action if necessary. This action is necessary to detect and correct heat damage to the fuselage skin panels caused by the leakage of hot air from one of the bleed air ducts inside the stub wing, which could result in reduced structural integrity of the engine support structure. This action is intended to address the identified unsafe condition.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–334–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–334–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–334–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–334–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority—The Netherlands (CAA–NL), which is the airworthiness authority for the Netherlands, notified the FAA that an unsafe condition may exist on all Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes. The CAA–NL advises that it has received reports of heat damage to the internal fuselage skin panels located in the stub wing areas. The cause of the heat damage was the leakage of hot air from one of the bleed air ducts inside the stub wing. Evidence of the heat damage was yellow discoloration of the primer paint on the inside of the fuselage. This condition, if not corrected, could result in reduced structural integrity of the engine support structure.

Explanation of Relevant Service Information

Fokker Services B.V. has issued Service Bulletin F28/53–151, dated June 4, 2001. The service bulletin describes procedures for repetitive visual inspections of the internal fuselage skin panels in the stub wing areas to detect discoloration of the primer paint due to heat damage, buckling or waviness of the skin panel, loose or missing fasteners, or fasteners with sheared-off heads; and corrective actions if necessary. The corrective actions include an eddy current inspection; measurement of the length and depth of buckles or waves in the skin panel; repair or replacement of skin panels with heat damage, buckling, or waviness that are not within the acceptable limits specified in the service bulletin; and replacement of loose and/or missing fasteners, or fasteners having sheared-off heads, with new fasteners. The CAA–NL classified this service bulletin as mandatory and issued Dutch airworthiness directive 2001–093, dated July 31, 2001, in order to assure the continued airworthiness of these airplanes in the Netherlands.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

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

Interim Action

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

Cost Impact

The FAA estimates that 24 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,440, or $60 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Fokker Services B.V.: Docket 2001–NM–334–AD.

Applicability: All Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct heat damage to the fuselage skin panels caused by the leakage of hot air from one of the bleed air ducts inside the stub wing, and consequent reduced structural integrity of the engine support structure; accomplish the following:

Repetitive Inspections

(a) Within 6,000 flight cycles after the effective date of this AD: Perform a general visual inspection of the internal fuselage structure between frames 16060 and 16660 and the beams at the upper and lower stub wing angles in the stub wing (engine pylon) areas, for discoloration of the primer paint, buckling or waviness of the skin panel, loose and/or missing fasteners, or fasteners with sheared-off heads, by accomplishing all actions specified in Part 1 of the Accomplishment Instructions of Fokker Service Bulletin F28/53–151, dated June 4, 2001. Repeat the inspection at intervals not to exceed 6,000 flight cycles.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Corrective Actions

(b) Except as provided by paragraph (c) of this AD, if any discrepancy is found (*i.e.*, primer paint discoloration; buckling or waviness of the skin panel; missing, damaged, or loose rivets) during the general visual inspection required by paragraph (a) of this AD, before further flight, perform the applicable follow-on corrective actions (*e.g.*, eddy current inspection; measurement of the length and depth of buckles or waves in the skin panel; repair of skin panels with heat damage, buckling, or waviness that are not within the acceptable limits specified in the service bulletin, or replacement with new skin panels; and replacement of loose and/or missing fasteners, or fasteners having sheared-off heads with new fasteners; as applicable) specified in the Accomplishment Instructions of Fokker Service Bulletin F28/53–151, dated June 4, 2001.

(c) If buckling or waviness of the skin panel is detected during the general visual inspection required by paragraph (a) of this AD, and the depth is within the limits specified in Part 2, paragraph C.(2) of the Accomplishment Instructions of Fokker Service Bulletin F28/53–151, dated June 4, 2001, the affected area must be repaired within 2,000 flight cycles after accomplishment of the inspection required by paragraph (a) of this AD.

(d) Repair or replacement of damaged fuselage skin panels or fasteners does not terminate the repetitive inspections required by this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 4: The subject of this AD is addressed in Dutch airworthiness directive 2001–093, dated July 31, 2001.

Issued in Renton, Washington, on November 15, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–29678 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–411–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319–131 and –132; A320–231, –232, and –233; and A321–131 and –231 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Airbus Model A319–131 and –132; A320–231, –232, and –233; and A321–131 and –231 series airplanes, that would have required installing new anti-swivel plates and weights on the engine fan cowl door latches. This new action revises the proposed rule by adding airplanes to the applicability and a requirement to install a new hold-open device. This action specified by this new proposed AD is necessary to prevent separation of the engine fan cowl door from the airplane in flight, which could result in damage to the airplane and hazards to persons or property on the ground. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by December 16, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–411–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–411–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–411–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–411–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Airbus Model A319–131 and ''132; A320–231, –232, and ''233; and A321–131 and –231 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on September 4, 2001 (66 FR 46246). That NPRM would have required installing new anti-swivel plates and weights on the engine fan cowl door latches. That NPRM was prompted by several incidents in which the fan cowl door on an International Aero Engine Model V2500 engine separated from the airplane during takeoff because the door was not fully latched prior to dispatch. That condition, if not corrected, could result in damage to the airplane and hazards to persons or property on the ground.

Actions Since Issuance of Previous Proposal

Due consideration has been given to the comment received in response to the NPRM:

One commenter requests that the NPRM be revised to mandate Airbus Service Bulletin A320–71–1028, dated March 23, 2001, and to update the applicability, as specified in French airworthiness directive, 2001–381(B), dated September 5, 2001. The commenter states that French airworthiness directive 2001–381(B) supersedes French airworthiness directive 2000–444–156(B), dated October 31, 2000, which was referenced in the NPRM.

The FAA agrees. Since the issuance of the NPRM, the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, issued French airworthiness directive 2001–381(B) to introduce an additional fan cowl latch improvement by installing a hold-open device and to revise the service information referenced in the applicability. That French airworthiness directive cancels French airworthiness directive 2000–444–156(B), which was referenced in the original NPRM.

In addition, Airbus has issued Service Bulletin A320–71–1028, dated March 23, 2001, which describes procedures for modification of the door latches of the fan cowl of both engines (*i.e.*, installation of new anti-swivel plates and weights), and installation of a new hold-open device; as applicable. Accomplishment of the actions specified in the service bulletin is

intended to adequately address the identified unsafe condition.

The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2001–381(B) in order to assure the continued airworthiness of these airplanes in France. Therefore, we have revised this supplemental NPRM to parallel that French airworthiness directive.

Conclusion

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

The FAA estimates that 154 airplanes of U.S. registry would be affected by this proposed AD.

For certain airplanes, it would take approximately 5 work hours per airplane to accomplish the proposed modification (*i.e.*, installation of new anti-swivel plates and weights), and that the average labor rate is $60 per work hour. Required parts would cost approximately $1,400 per airplane. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $1,700 per airplane.

For all airplanes, it would take approximately 3 work hours per airplane to accomplish the proposed installation of the hold-open device, and that the average labor rate is $60 per work hour. Required parts would cost approximately $100 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $43,120, or $280 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket 2000–NM–411–AD.

Applicability: Model A319–131 and –132; A320–231, –232, and –233; and A321–131 and –231 series airplanes; certificated in any category; except those airplanes on which the following have been incorporated: Airbus Modifications 21948/P6222 and 30869 in production; Airbus Modifications 24259/P6222 and 30869 in production; Airbus Modifications 24259/P6222 and 24259/P6473 in production; or Airbus Service Bulletin A320–71–1028, dated March 23, 2001, in-service.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the engine fan cowl door from the airplane in flight, which could result in damage to the airplane and hazards to persons or property on the ground, accomplish the following:

Modification and/or Installation

(a) Within 18 months after the effective date of this AD, do the action(s) specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For Configuration 01 airplanes identified in Airbus Service Bulletin A320–71–1028, dated March 23, 2001: Modify the door latches of the fan cowl of both engines (*i.e.*, installation of new anti-swivel plates and weights), and install a new hold-open device, per the service bulletin.

(2) For Configuration 02 airplanes identified in Airbus Service Bulletin A320–71–1028, dated March 23, 2001: Install a new hold-open device per the service bulletin.

Alternative Method Of Compliance

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

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

Special Flight Permits

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

Note 3: The subject of this AD is addressed in French airworthiness directive 2001–381(B), dated September 5, 2001.

Issued in Renton, Washington, on November 15, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–29679 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM02–12–000]

Extension of Time and Further Procedures

November 12, 2002.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Federal Energy Regulatory Commission is extending the deadline for filing of comments on the Advance Notice of Proposed Rulemaking (ANOPR) and comments on the consensus documents that are currently due to be filed on November 12, 2002.

DATES: Comments are extended to and including December 9, 2002.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Magalie R. Salas, Secretary, 888 First Street, NE., Washington, DC 20426, (202) 508–8400.

SUPPLEMENTARY INFORMATION:

Standardization of Small Generator Interconnection Agreements and Procedures

On August 16, 2002, the Commission issued an Advance Notice of Proposed Rulemaking (ANOPR) in the above-docketed proceeding. On October 23, 2002, a Notice extending the period for filing of comments until November 26, 2002 was issued. Notice is given that the deadline for the filing of comments on the ANOPR and comments on the consensus documents (which are due to be filed November 12, 2002) is hereby extended to December 20, 2002. Furthermore, on or before December 9, 2002, the stakeholders who have participated in the development of the consensus documents will file statements explaining their various positions on the consensus documents. Upon receipt of these statements, Commission staff will prepare a summary table showing various issues and delineating the positions and explanations of the various parties and file the summary table in this proceeding.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–29401 Filed 11–20–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Office of International Investment

31 CFR Part 800

Regulations Pertaining to Mergers, Acquisitions, and Takeovers by Foreign Persons

AGENCY: Office of International Investment, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends regulations in part 800 of 31 CFR that implement section 721 of Title VII of the Defense Production Act of 1950 (the ''DPA''), as added by section 5021 of the Omnibus Trade and Competitiveness Act of 1988. The proposed regulation amends only those provisions relating to the filing of voluntary notice with the Committee on Foreign Investment in the United States (CFIUS).

DATES: Written comments on the proposed rule may be submitted on or before December 23, 2002.

ADDRESSES: Because paper mail in the Washington area may be subject to delay, commenters are encouraged to e-mail comments. Comments should be sent by one method only. Comments may be mailed to Gay Sills, Director, Office of International Investment, Room 4201 NY, Department of the Treasury, Washington, DC 20220, or sent electronically to *CFIUS@do.treas.gov*.

FOR FURTHER INFORMATION CONTACT: Gay Sills, Director, Office of International Investment, Department of the Treasury, 15th Street and Pennsylvania Ave., NW., Washington, DC 20220, (202) 622–1860.

SUPPLEMENTARY INFORMATION: Section 136 of the Defense Production Act Amendments of 1992 (Pub. L. 102–558) amended section 709 of the DPA by requiring that any regulation issued under the DPA be published in the **Federal Register** and that opportunity for public comment be provided for not less than thirty days. Due to the relatively routine nature of these regulations, the comment period will be 30 days.

This proposed regulation provides parties that file a notice with CFIUS under section 721 with the option of filing electronically, providing just a single paper copy to CFIUS, or the option of continuing the current practice of providing CFIUS 13 paper copies. By filing electronically, companies could substantially decrease the paperwork burden of providing CFIUS notice under section 721.

Executive Order 12866

These regulations are not subject to the requirements of Executive Order 12866 because they relate to a foreign and military affairs function of the United States.

Paperwork Reduction Act

The collections of information provided for in this rule have been previously reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under OMB control number 1505–0121. The proposed rule does not change the information collection other than to permit an alternative means of submitting notice to the Committee on Foreign Investment in the United States.

Regulatory Flexibility Act

This regulation implements section 721 of the Defense Production Act of 1950 (''Section 721'') (50 U.S.C. App. 2170)(''DPA''). Section 709 of the DPA (50 U.S.C. App. 2159) provides that the regulations issued under it are not subject to the rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 553). Notwithstanding this exemption, section 709 of the DPA was amended by section 136 of the Defense Production Act Amendments of 1992 (Pub. L. 102–558) to require any regulation issued under the DPA to be published in the **Federal Register** for at least thirty days to provide for public comment. This requirement subjects this proposed rule to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It is hereby certified that this proposed rule will not impose a significant economic impact on a substantial number of small businesses. Currently, the Treasury Department estimates that an average filing requires about 60 hours of preparation time. This proposed rule will permit parties to file notifications electronically, which is expected to reduce the preparation time somewhat because it will no longer be necessary to provide 13 paper copies of a filing. Instead, a filer can provide a single paper copy to the Treasury Department along with the electronic filing. Therefore, the impact of the proposed rule on small companies that file notifications with CFIUS is expected to be marginally beneficial.

List of Subjects in 31 CFR Part 800

Foreign investments in United States, Investigations, National defense, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set out in the preamble, Title 31, chapter VIII, part 800 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 800—[AMENDED]

1. Section 800.401 is revised to read as follows:

§ 800.401 Procedures for notice.

(a) A party or parties to an acquisition subject to section 721 may submit a voluntary notice to the Committee of the proposed or completed acquisition by:

(1) Sending thirteen copies of the information set out in § 800.402 to the Staff Chairman of the Committee on Foreign Investment in the United States (''Staff Chairman''), Office of International Investment, Department of the Treasury, 15th Street and Pennsylvania Avenue, NW., Washington, DC 20220; or

(2) Sending—

(i) One signed paper copy of the information set out in § 800.402 to the Staff Chairman of the Committee on Foreign Investment in the United States (''Staff Chairman''), Office of International Investment, Department of the Treasury, 15th Street and Pennsylvania Avenue, NW., Washington, DC 20220; and

(ii) One electronic copy of this same information in Adobe Acrobat (PDF) or Microsoft Word format to the following e-mail address: *CFIUS@do.treas.gov*. Electronic filings that exceed 5 Megabytes (MB) will need to be divided into smaller transmissions of no more than 5 MB each, which should be sent individually as attachments to separate e-mails.

(b) Any member of the Committee may submit an agency notice of a proposed or completed acquisition to the Committee through its Staff Chairman if that member has reason to believe, based on facts then available, that the acquisition is subject to section 721 and may have adverse impacts on the national security. In the event of agency notice, the Committee will promptly furnish the parties to the acquisition with written advice of such notice.

(c) No agency notice, or review or investigation by the Committee, shall be made with respect to a transaction more than three years after the date of conclusion of the transaction, unless the Chairman of the Committee, in consultation with other members of the Committee, requests an investigation.

(d) No communications other than those described in paragraphs (a), (b) and (c) of this section shall constitute notice for purposes of section 721. In any case where a party or parties file(s) electronically under paragraph (a) of this section, the signed paper copy shall constitute the original copy, and CFIUS will not notify the parties of its acceptance of a filing until the original copy has been received by the Office of International Investment.

Dated: October 28, 2002.

John B. Taylor,

Under Secretary for International Affairs.

[FR Doc. 02–29622 Filed 11–20–02; 8:45 am]

BILLING CODE 4810–25–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–3017, MB Docket No. 02–348, RM–10455]

Television Broadcast Service; Presque Isle, ME

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Western Broadcasting Company, LLC, an applicant for channel 62+, proposing the substitution of channel 47 for channel 62+ at Presque Isle, Maine. Channel 47 can be allotted to Presque Isle, Maine, with a zero offset at reference coordinates 46–45–12 N. and 68–10–28 W. Since the community of Presque Isle is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government must be obtained for this allotment.

DATES: Comments must be filed on or before January 3, 2003, and reply comments on or before January 21, 2003.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Bruce A. Eisen, Kaye, Scholer, Fierman, Hays & Handler, LLP, 901 Fifteenth Street, NW., Suite 1100, Washington, DC 20005–2327 (Counsel for Western Broadcasting Company, LLC).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–348, adopted November 4, 2002, and released November 12, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com.*

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under Maine, is amended by removing Channel 62+ and adding Channel 47 at Presque Isle.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–29577 Filed 11–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 02–318; RM–10184; FCC 02–281]

Airport Terminal Use Frequencies in the 450–470 MHz Band of the Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document grants the Petition for Rulemaking (Petition) filed by the Personal Communications Industry Association (PCIA), which seeks to initiate a proceeding to explore amending of the Commission's Rules. Specifically, the NPRM seeks comment on revising the power limits governing frequencies designated on a primary basis for ''Airport Terminal Use'' (ATU). The NPRM also seeks comment on what measures, if any, are necessary to safeguard the integrity of communications by public safety, railroad and utility entities (namely: water, energy and gas) as well as other licensed operations, such as Wireless Medical Telemetry Service (WMTS), that may be impacted by PCIA's proposed rule changes. The NPRM also seeks comment on class codes to recognize ATU operations.

DATES: Comments are due on or before December 23, 2002 and reply comments are due on or before January 6, 2003.

ADDRESSES: Federal Communications Commission 445 12th Street, SW., TW–A325, Washington, DC 20554. *See* **SUPPLEMENTARY INFORMATION** for filing instructions.

FOR FURTHER INFORMATION CONTACT: John Evanoff, Esq., at (202) 418–0848, *jevanoff@fcc.gov,* or Thomas Eng, (202) 418–0019, *teng@fcc.gov,* Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking,* FCC 02–281, adopted on October 4, 2002, and released on October 10, 2002. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at *bmillin@fcc.gov.*

1. In this Notice of Proposed Rulemaking (NPRM), we seek comment on revisions to the use of the Airport Terminal Use (ATU) frequencies in the 450–470 MHz Private Land Mobile Radio (PLMR) Industrial Business (I/B) Pool. We find that a rulemaking proceeding is warranted to allow consideration of the issues and proposals presented in the Personal Communications Industry Association's (PCIA) Petition for Rulemaking (Petition). Accordingly, we grant PCIA's Petition to initiate this proceeding.

2. Specifically, this NPRM seeks comment on revising § 90.35(c) of our Rules regarding the ATU frequencies to:

- Delete the 3-watt total output power (TPO) limit for transmitters operating on ATU mobile-only frequencies and adopt a general effective radiated power (ERP) standard.
- Convert the power limit for base transmitters operating on ATU base/mobile frequencies from 20-watts TPO to 100-watts ERP.

In addition, the NPRM seeks comment on whether the Universal Licensing System (ULS) should be modified to recognize ATU frequencies and the associated operational requirements, and if so, how.

3. We believe that revising the current power limits could enhance airport terminal communications and thereby further the public interest. We nonetheless are concerned that such rule changes may adversely impact aviation-related communications, public safety, railroad and utility (namely: energy, water and gas) communications and wireless medical telemetry service (WMTS) operations. We are also concerned that such rule changes may adversely impact the operations of non-ATU I/B entities that are co-channel licensees—on a secondary basis to ATU licensees—at sites located at least 10 miles from 242 airports for which the ATU frequencies are designated. Accordingly, in commencing this proceeding, we specifically urge interested parties to comment on the impact that any proposed rule changes would have on the operations of non-ATU licensees. We also seek comment on alternatives to PCIA's proposals.

I. Procedural Matters

A. Ex Parte Rule—Permit-but-Disclose Proceeding

4. This is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, if they are disclosed as provided in the Commission's Rules.

B. Initial Regulatory Flexibility Analysis

5. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. The IRFA is set forth further. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments filed in this NPRM, but they must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a).

C. Initial Paperwork Reduction Analysis

6. This NPRM does not contain either a proposed or modified information collection.

D. Alternative Formats

7. Alternative formats (computer diskette, large print, audio cassette and Braille) are available from Brian Millin, Consumer and Governmental Affairs Bureau, at (202) 418–7426, TTY (202) 418–7365, or at *bmillin@fcc.gov.* This NPRM can also be downloaded at *http://wireless.fcc.gov/releases.html.*

E. Comment Dates

8. Pursuant to §§ 1.415 and 1.419 of our rules interested parties may file comments on or before December 23, 2002, and reply comments on or before January 6, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

9. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by

Internet e-mail. To obtain filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

II. Initial Regulatory Flexibility Certification

10. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided in paragraph 23, supra. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

11. In this NPRM, we propose to amend the maximum output power for airport terminal use frequencies identified in 47 CFR 90.35(c)(48) to 100-watts maximum effective radiated power. We believe such modification would be in the public interest because it would enhance the efficient use of spectrum, permit greater efficiency in use of airport terminal communications, and facilitate Homeland Security measures at airports. In this NPRM we also propose to delete the maximum output power for airport use frequencies identified in 47 CFR 90.35(c)(11) and (68).

B. Legal Basis

12. Authority for the proposed rules included in this NPRM is contained in Sections 1, 4(i), 302, 303(f), and (r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 154(i), 302, 303(f) and (r), and 332.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

13. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Nationwide, as of 1992, there were approximately 275,801 small organizations. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the proposed rules, if adopted.

14. *Estimates for Private Land Mobile Radio (PLMR) Licensees.* PLMR systems serve an essential role in a vast range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. Because of the vast array of PLMR users, the Commission has not developed a definition of small entities specifically applicable to PLMR users, nor has the SBA developed any such definition. The SBA rules do, however, contain a definition for small cellular and telecommunications, which has the small business size standard of no more than 1,500 employees. The Commission's fiscal year 1994 annual report indicates that, at the end of fiscal year 1994, there were 1,101,711 licensees operating 12,882,623 transmitters in the PLMR bands below 512 MHz.

15. *Equipment Manufacturers.* The SBA has established a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing. Under this standard, business firms are considered small if they have 750 or fewer employees. Census data for 1997 indicate that, for that year, there were a total of 1,215 establishments in this category. Of those, there were 1150 that had employment under 500, and an additional 37 that had employment of 500 to 999. The percentage of broadcast equipment manufacturers to others in this category is approximately 22%, so we estimate that the number of broadcast equipment manufacturers with employment under 500 was actually closer to 253, with an additional 8 establishments having employment of between 500 and 999.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

16. The proposed rules will not entail reporting, recordkeeping, and or third-party consultation. These changes do not contain any new or modified form, information collection, and/or record keeping, labeling, disclosure, or record retention requirements and will not increase or decrease burden hours imposed on the public.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

17. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.'' The Commission invited public comment on alternative proposals to address the

problems identified by PCIA. Specifically, the Commission sought comment on measures to minimize the impact of granting PCIA's proposals on PLMR licensees, and on waivers of the existing power limits for ATU mobile stations, which would exempt, on a case-by-case basis, PLMR licensees from coverage of the specified rules. The proposed rule changes contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

18. None.

III. Ordering Clauses

19. Pursuant to sections 1, 4(i), 302, 303(f) and (r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 154(i), 302, 303(f) and (r), 332, the Petition for Rulemaking filed by the Personal Communications Industry Association, Inc., on June 25, 2001, and supplemented on May 21, 2002, is *granted* to the extent indicated herein.

20. Pursuant to sections 1, 4(i), 302, 303(f) and (r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 154(i), 302, 303(f) and (r), 332, *notice is hereby given* of the proposed regulatory changes described in this Notice of Proposed Rule Making, and that *comment is sought* on these proposals.

21. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rule Making, WT Docket No. 02–318, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

Part 90 of Chapter 1 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(g), 303(r), and 332(c)(7).

2. In § 90.35, paragraph (b)(3) is amended by revising the entries for frequencies 460.650 through 460.89375 and 465.650 through 465.89375 and by revising paragraph (c)(48) to read as follows:

§ 90.35 Industrial business pool.

* * * * *

(b) * * *

(3) * * *

Frequency or band	Class of station(s)	Limitations	Coordinator
460.650	do	48, 61, 62.	
460.65625	do	33, 48, 61, 62.	
460.6625	do	30, 48, 61, 62, 69.	
460.66875	do	33, 48, 61, 62.	
460.675	do	48, 61, 62.	
460.68125	do	33, 48, 61, 62.	
460.6875	do	30, 48, 61, 62, 69.	
460.69375	do	33, 48, 61, 62.	
460.700	do	48, 61, 62.	
460.70625	do	33, 48, 61, 62.	
460.7125	do	30, 48, 61, 62, 69.	
460.71875	do	33, 48, 61, 62.	
460.725	do	48, 61, 62.	
460.73125	do	33, 48, 61, 62.	
460.7375	do	30, 48, 61, 62, 69.	
460.74375	do	33, 48, 61, 62.	
460.750	do	48, 61, 62.	
460.75625	do	33, 48, 61, 62.	
460.7625	do	30, 48, 61, 62, 69.	
460.76875	do	33, 48, 61, 62.	
460.775	do	48, 61, 62.	
460.78125	do	33, 48, 61, 62.	
460.7875	do	30, 48, 61, 62, 69.	
460.79375	do	33, 48, 61, 62.	
460.800	do	48, 61, 62.	
460.80625	do	33, 48, 61, 62.	
460.8125	do	30, 48, 61, 62, 69.	
460.81875	do	33, 48, 61, 62.	
460.825	do	48, 61, 62.	
460.83125	do	33, 48, 61, 62.	
460.8375	do	30, 48, 61, 62, 69.	
460.84375	do	33, 48, 61, 62.	
460.850	do	48, 61, 62.	
460.85625	do	33, 48, 61, 62.	
460.8625	do	30, 48, 61, 62, 69.	
460.86875	do	33, 48, 61, 62.	
460.875	do	48, 61, 62.	
460.88125	do	33, 48, 61, 62.	
460.8875	do	30, 48, 61, 62, 69.	
460.89375	do	33, 48, 61, 62.	
465.650	do	61, 62.	
465.65625	do	33, 61, 62.	
465.6625	do	30, 61, 62, 69.	
465.66875	do	33, 61, 62.	

Frequency or band	Class of station(s)	Limitations	Coordinator
465.675	do	61, 62.	
465.68125	do	33, 61, 62.	
465.6875	do	30, 61, 62, 69.	
465.69375	do	33, 61, 62.	
465.700	do	61, 62.	
465.70625	do	33, 61, 62.	
465.7125	do	30, 61, 62, 69.	
465.71875	do	33, 61, 62.	
465.725	do	61, 62.	
465.73125	do	33, 61, 62.	
465.7375	do	30, 61, 62, 69.	
465.74375	do	33, 61, 62.	
465.750	do	61, 62.	
465.75625	do	33, 61, 62.	
465.7625	do	30, 61, 62, 69.	
465.76875	do	33, 61, 62.	
465.775	do	61, 62.	
465.78125	do	33, 61, 62.	
465.7875	do	30, 61, 62, 69.	
465.79375	do	33, 61, 62.	
465.800	do	61, 62.	
465.80625	do	33, 61, 62.	
465.8125	do	30, 61, 62, 69.	
465.81875	do	33, 61, 62.	
465.825	do	61, 62.	
465.83125	do	33, 61, 62.	
465.8375	do	30, 61, 62, 69.	
465.84375	do	33, 61, 62.	
465.850	do	61, 62.	
465.85625	do	33, 61, 62.	
465.8625	do	30, 61, 62, 69.	
465.86875	do	33, 61, 62.	
465.875	do	61, 62.	
465.88125	do	33, 61, 62.	
465.8875	do	30, 61, 62, 69.	
465.89375	do	33, 61, 62.	

* * * * *

(c) * * *

(48) Except as noted in paragraph (c)(61) of this section, operation on this frequency is limited to a maximum of 100 watts effective radiated power in accordance with the maximum ERP and reference HAAT for a specific service area radius provisions of § 90.205 table 2.

* * * * *

[FR Doc. 02–29437 Filed 11–20–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH76

Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for Scotts Valley Polygonum *(Polygonum hickmanii)*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment periods; notice of availability of draft economic analysis and final addendum.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft economic analysis and final addendum for the proposed designation of critical habitat for Scotts Valley polygonum *(Polygonum hickmanii)*, a species restricted to the northern Scotts Valley area in Santa Cruz County, California. We are also reopening the comment periods for the proposal to list this species as endangered and on the proposal to designate critical habitat for this species to allow all interested parties to comment simultaneously on the proposed rules, draft economic analysis, and final addendum. The economic analysis shows a range of likely costs from the designation of the proposed critical habitat of between $165,000 to $565,000 over a 10-year period. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this extended comment period, and will be fully considered in the final rule.

DATES: We will accept comments until December 6, 2002. Comments must be received by 5 p.m. on the closing date. Any comments that are received after the closing date may not be considered in the final decisions.

ADDRESSES: Written comments and information should be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003. Written comments may also be sent by fax to 805–644–3958 or hand-delivered to our Ventura Fish and Wildlife Office at the above address. You may also send comments by electronic mail (e-mail) to *fw1svpolygonum@r1.fws.gov.*

You may view comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, by appointment, during normal business hours in the U.S. Fish and Wildlife Service's Ventura Fish and Wildlife Office at the above address. You may obtain copies of the proposed rule and draft economic analysis from the above address, by calling 805–644–1766, or from our Web site at *http://ventura.fws.gov/.*

FOR FURTHER INFORMATION CONTACT: Diane Noda, Field Supervisor, Ventura Fish and Wildlife Office, at the above

address (telephone 805–644–1766; facsimile 805–644–3958).

SUPPLEMENTARY INFORMATION:

Background

Polygonum hickmanii is a small, erect, taprooted annual in the buckwheat family (Polygonaceae). It grows from 2 to 5 centimeters (cm) (1 to 2 inches (in)) tall, and can be either single stemmed or profusely branching near the base in more mature plants. The linear-shaped leaves are 0.5 to 3.5 cm (0.2 to 1.4 in) long and 1 to 1.5 cm (0.4 to 0.6 in) wide and tipped with a sharp point. The single white flowers consist of two outer petals and three inner petals and are found in the axils of the bracteal leaves. The plant flowers from late May to August. Seed production ranges from a few dozen in a typical individual to as many as 200 in a particularly robust individual (Randy Morgan, biological consultant, pers. comm., 1998). Although pollination for this species has not been studied, Morgan observed a sphecid wasp (family Sphecidae) visitation to an individual of *P. hickmanii* (R. Morgan, pers. comm., 1998). Other potential pollinators have not been identified at this time, and the degree to which *P. hickmanii* depends on insect pollinators (rather than being self-pollinated) has not been determined. The nearest location of a closely related species, *Polygonum parryi,* is at Mount Hamilton, about 48 kilometers (km) (30 miles (mi)) inland. *P. hickmanii* differs from *P. parryi* in its larger white flowers, longer leaves, larger anthers and seeds, and longer, straight stem sheath (Hinds and Morgan 1995).

Polygonum hickmanii is known from two sites about 1.6 km (1 mi) apart at the northern end of Scotts Valley in Santa Cruz County, California. The species is found on gently sloping to nearly level fine-textured shallow soils over outcrops of Santa Cruz mudstone and Purisima sandstone (Hinds and Morgan 1995). *Polygonum hickmanii* occurs with *Chorizanthe robusta* var. *hartwegii* (Scotts Valley spineflower), a federally endangered species, and other small annual herbs in patches within a more extensive annual grassland habitat. These small patches have been referred to as ''wildflower fields'' because they support a large number of native herbs, in contrast to the adjacent annual grasslands that support a greater number of non-native grasses and herbs. While the wildflower fields are underlain by shallow, well-draining soils, the surrounding annual grasslands are underlain by deeper soils with a greater water-holding capacity, and therefore more easily support the growth of non-native grasses and herbs. The surface soil texture in the wildflower fields tends to be consolidated and crusty rather than loose and sandy (Biotic Resources Group (BRG) 1998). Elevation of the sites is from 215 to 245 meters (m) (700 to 800 feet (ft)) (Hinds and Morgan 1995).

Polygonum hickmanii and *Chorizanthe robusta* var. *hartwegii* are associated with a number of native herbs including goldfields *(Lasthenia californica),* sandwort *(Minuartia douglasii),* California sandwort *(Minuartia californica),* gilia *(Gilia clivorum),* owl's clover *(Castilleja densiflora),* sky lupine *(Lupinus nanus),* brodiaea *(Brodiaea terrestris),* Mount Diablo cottonweed *(Stylocline amphibola),* Gray's clover *(Trifolium grayii),* and coast tarplant *(Hemizonia corymbosa).* Non-native species present include filago *(Filago gallica)* and rattail *(Vulpia myuros)* (California Natural Diversity Data Base (CNDDB) 1998; R. Morgan, pers. comm., 1998). In many cases, the habitat also supports a crust of mosses and lichens (BRG 1998).

Approximately 11 colonies of *Polygonum hickmanii* occur on 2 sites in the Scotts Valley area. The first site is located north of Casa Way and west of Glenwood Drive in northern Scotts Valley. Referred to as the Glenwood site, it contains five colonies of *P. hickmanii* that occur on two privately owned parcels of land. Several colonies are situated within a 4-hectare (ha) (9-acre (ac) preserve on a 19-ha (48-ac) parcel that is owned by the Scotts Valley Unified School District (Denise Duffy and Associates 1998), and other colonies are located approximately 0.08 km (0.13 mi) to the west of the School District colony on a parcel of land owned by the Salvation Army (CNDDB 1998).

Additional patches of suitable but unoccupied habitat for *Polygonum hickmanii,* Scotts Valley spineflower, and other wildflower field taxa have been mapped on adjacent parcels directly east and north of the School District preserve (Denise Duffy and Associates 1998). These parcels are owned by American Dream/Glenwood L.P. A residential development has been approved for construction; it includes a proposed open space parcel that includes all of the suitable but unoccupied habitat for *P. hickmanii* (Impact Sciences 2000a).

The second site is referred to as the ''Polo Ranch'' site. Located just east of Highway 17 and north of Navarra Road in northern Scotts Valley, this site is approximately 1.6 km (1 mi) east of the Salvation Army and School District colonies. Colonies within the Polo Ranch site occur on a parcel of land owned by Greystone Homes (Lyons, *in litt.,* 1997). Six colonies of *Polygonum hickmanii,* as well as Scotts Valley spineflower, occur within 0.2 km (0.1 mi) of each other on the Polo Ranch site (Lyons, *in litt.,* 1997; Impact Sciences 2000b).

Pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.), Polygonum hickmanii* was proposed as endangered on November 9, 2000 (65 FR 67335). On February 15, 2001, we published in the **Federal Register** (66 FR 10440) a rule proposing critical habitat for *P. hickmanii* and *Chorizanthe robusta* var. *hartwegii* concurrently. Since a final listing determination had not been made for *P. hickmanii,* on September 19, 2001, we published in the **Federal Register** (66 FR 48227) a notice requesting the public to comment on the draft economic analysis for only *C. robusta* var. *hartwegii.* Based on the comments received, a final addendum to the draft economic analysis was prepared. The final addendum for the economic analysis included both species because it was based on the proposed critical habitat designation. The final critical habitat determination for *C. robusta* var. *hartwegii* was published on May 29, 2002 (67 FR 37336). A final critical habitat determination has not been made for *P. hickmanii.* We anticipate publishing the final listing and critical habitat determinations for *P. hickmanii* concurrently.

Section 4(b)(2) of the Act requires that the Secretary shall designate or revise critical habitat based upon the best scientific and commercial data available, after taking into consideration the economic impact of specifying any particular area as critical habitat. Based upon the previously published proposal to designate critical habitat for the *Polygonum hickmanii,* and comments received during the previous comment period, we have prepared a draft economic analysis and final addendum of the proposed critical habitat designation.

Copies of the draft economic analysis and final addendum are available on the Internet at *http://www.r1.fws.gov* or by writing to the Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003.

Public Comments Solicited

We have reopened the comment periods at this time in order to accept the best and most current scientific and

commercial data available regarding the proposed listing and critical habitat determinations for *Polygonum hickmanii,* and the draft economic analysis and final addendum associated with the designation of critical habitat. Previously submitted written comments on the listing or critical habitat proposals need not be resubmitted. We will accept written comments and information during this reopened comment period. If you wish to comment, you may submit your comments and materials concerning this proposal by any of several methods:

You may mail or hand-deliver written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003. Hand deliveries must be made during normal business hours.

You may also send comments by electronic mail (e-mail) to *fw1svpolygonum@r1.fws.gov.* Please submit electronic comments in ASCII file format and avoid the use of special characters and encryption. Please include ''Attn: RIN 1018-AH82'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Ventura Fish and Wildlife Office at phone number 805/644–1766.

We solicit comments or suggestions from the public, other concerned governmental agencies, tribes, the scientific community, industry, or any other interested parties concerning the proposal or the draft economic analysis. We particularly seek comments concerning:

(1) Does the analysis adequately address the indirect effects *eg:* property tax losses due to reduced home construction, losses to local business due to reduced construction activity.

(2) Does the analysis accurately define and capture opportunity costs.

Author

The primary author of this notice is Connie Rutherford (*see* **ADDRESSES** section).

Authority

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

Dated: November 7, 2002.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–29621 Filed 11–19–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI26

Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for Four Vernal Pool Crustaceans and Eleven Vernal Pool Plants in California and Southern Oregon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of availability of draft economic analysis; extension of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) announce the availability of the draft economic analysis for the proposed designation of critical habitat for four vernal pool crustaceans and eleven vernal pool plants in California and southern Oregon. The economic analysis identifies potential costs between $6 and $7 million per year as a result of the designation of critical habitat, including those costs coextensive with listing. We are extending the comment period for the proposal to designate critical habitat for these species to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this extended comment period, and will be fully considered in the final rule.

DATES: We will accept comments on both the draft economic analysis and the proposed critical habitat designation until December 23, 2002.

ADDRESSES: Written comments and information should be submitted to Wayne White, Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W–2605, Sacramento, CA 95825. Written comments may also be sent by fax to 916/414–6710 or hand-delivered to our Sacramento Fish and Wildlife Office at the above address. You may also send comments by electronic mail (e-mail) to *fw1_vernalpool@fws.gov.*

You may view comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, by appointment, during normal business hours in the U.S. Fish and Wildlife Service's Sacramento Fish and Wildlife Office at the above address. You may obtain copies of the proposed rule and draft economic analysis from the above address, by calling 916/414–6600, or from our Web site at *http://sacramento.fws.gov/.*

FOR FURTHER INFORMATION CONTACT: Arnold Roessler, Sacramento Fish and Wildlife Office, at the address above (telephone 916/414–6600; facsimile 916/414–6710).

SUPPLEMENTARY INFORMATION:

Background

On September 24, 2002, we published a proposed rule to designate critical habitat, pursuant to the Endangered Species Act of 1973, as amended (Act) for four vernal pool crustaceans and eleven vernal pool plants (67 FR 59884). The four vernal pool crustaceans involved in this critical habitat designation are the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool fairy shrimp (*Branchinecta lynchi*) and vernal pool tadpole shrimp (*Lepidurus packardi*). The eleven vernal pool plant species are Butte County meadowfoam (*Limnanthes floccosa* ssp. *californica*), Contra Costa goldfields (*Lasthenia conjugens*), Hoover's spurge (*Chamaesyce hooveri*), succulent (or fleshy) owl's-clover (*Castilleja campestris* ssp. *succulenta*), Colusa grass (*Neostapfia colusana*), Greene's tuctoria (*Tuctoria greenei*), hairy Orcutt grass (*Orcuttia pilosa*), Sacramento Orcutt grass (*Orcuttia viscida*), San Joaquin Valley Orcutt grass (*Orcuttia inaequalis*), slender Orcutt grass (*Orcuttia tenuis*), and Solano grass (*Tuctoria mucronata*). We proposed a total of 128 units of critical habitat for these 15 species, totaling approximately 672,920 hectares (ha) (1,662,762 acres (ac)) in 36 counties in California and one county in Oregon.

All the species listed above live in vernal pools (shallow depressions that hold water seasonally), swales (shallow drainages that carry water seasonally), and ephemeral freshwater habitats. None are known to occur in riverine waters, marine waters, or other permanent bodies of water. The vernal pool habitats of these species have a discontinuous distribution west of the Sierra Nevada that extends from southern Oregon through California into northern Baja California, Mexico. The species have all adapted to the generally mild climate and seasonal periods of inundation and drying which help make the vernal pool ecosystems of California and southern Oregon unique.

Critical habitat receives protection from destruction or adverse modification through required

consultation under section 7 of the Act with regards to actions carried out, funded, or authorized by a Federal agency. Section 4(b)(2) of the Act requires that the Secretary of the Interior shall designate or revise critical habitat based upon the best scientific and commercial data available, after taking into consideration the economic impact of specifying any particular area as critical habitat.

The public comment period for the September 24, 2002, proposal originally closed on November 25, 2002. We have prepared a draft economic analysis on the effects of the proposed critical habitat designation, and are now announcing its availability for review. The draft analysis estimates the foreseeable economic impacts of the critical habitat designation on government agencies and private businesses and individuals. The economic analysis identifies potential costs between $6 and $7 million per year as a result of the designation of critical habitat, including those costs coextensive with listing. At this time the Service has not identified any areas to exclude under Section 4(b)(2) or 3(5)(A) of the Act. The Service will consider excluding areas if they do not require special management or if the benefits of excluding them from the critical habitat designation outweigh the benefits of including them. The economic analysis presents the Service's tentative conclusions with respect to the economic effects of the proposed critical habitat designation. The Service will not make any final decisions about exclusions, however until it has obtained public comment on the economic analysis and produced an addendum to the economic analysis containing its final conclusions. The Service is interested in comments from the public on the economic analysis, on whether any of the areas identified in the economic analysis as having economic effects should be excluded for economic reasons, and whether those or any other areas should be excluded for other reasons. Extension of the comment period will provide the public an opportunity to evaluate and comment on both the proposed rule and the draft economic analysis. Comments already submitted on the proposed designation of critical habitat for four vernal pool crustaceans and eleven vernal pool plants do not need to be resubmitted as they will be fully considered in the final determination.

Public Comment Solicited

The final economic analysis concerning the designation of critical habitat for four vernal pool crustaceans and eleven vernal pool plants will consider information and recommendations from all interested parties. We particularly seek comments concerning:

(1) Assumptions reflected in the economic analysis regarding land use practices and current, planned, or reasonably foreseeable activities in the subject areas, including comments or information relating to the potential effects that the designation could have on private landowners as a result of actual or foreseeable State and local government responses due to the California Environmental Quality Act;

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

(3) Any foreseeable economic or other impacts resulting from the proposed designation of these critical habitats, including impacts that may not have been addressed in the draft economic analysis and, in particular, any impacts on small entities or families;

(4) Economic and other values associated with designating critical habitat for these species; and

(5) Whether our approach to critical habitat designation could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concern and comments.

We will accept written comments and information during this reopened comment period. If you wish to comment, you may submit your comments and materials concerning this proposal by any of several methods:

You may mail or hand-deliver written comments and information to the Field Supervisor, Sacramento Fish and Wildlife Office, at the above address. Hand deliveries must be made during normal business hours.

You may also send comments by electronic mail (e-mail) to *fw1_vernalpool@fws.gov.* If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include a return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Sacramento Fish and Wildlife Office at telephone number 916/414–6600, during normal business hours.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business hours at our office listed in the **ADDRESSES** section. Copies of the draft economic analysis are available on the Internet at *http://www.r1.fws.gov* or by writing or calling Arnold Roessler, at the address or telephone number listed above.

Author

The primary author of this notice is Susan Moore (*see* **ADDRESSES** section).

Authority

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

Dated: November 7, 2002.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–29619 Filed 11–19–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI46

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period and Announcement of Public Hearings on Designation of Critical Habitat for the Preble's Meadow Jumping Mouse (*Zapus hudsonius preblei*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reopening of public comment period and announcement of public hearings.

SUMMARY: The Fish and Wildlife Service (Service) is reopening the comment period on the Service's proposal to designate critical habitat for the Preble's meadow jumping mouse (*Zapus hudsonius preblei*) (67 FR 47154, July 17, 2002). The comment period will remain open for 60 days. In addition, the Service will host two public hearings on the proposal on November 21, 2002, at the Jefferson County Courts and Administrative Building in Golden, Colorado.

DATES: The public comment period for the proposed rule is reopened for a period of 60 days, beginning November 21, 2002 and ending January 21, 2003.

ADDRESSES: You may submit written comments and information to Preble's Mouse Comments, Colorado Ecological Services Field Office, U.S. Fish and Wildlife Service, 755 Parfet Street, Suite

361, Lakewood, Colorado 80215, or by facsimile to 303–275–2371. You may hand deliver written comments to our Colorado Ecological Services Field Office at the address given above. You may send comments by electronic mail (e-mail) to *fw6_pmjm@fws.gov. See* the ''Public Comments Solicited'' section below for file format and other information on electronic filing. You may review comments and materials received, as well as supporting documentation used in preparation of this proposed rule, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service's Colorado Field Office.

FOR FURTHER INFORMATION CONTACT: LeRoy Carlson, Colorado Field Supervisor, at the above address or telephone 303–275–2370.

SUPPLEMENTARY INFORMATION:

Background

The Preble's meadow jumping mouse, a small rodent in the family Zapodidae, is known to occur only in eastern Colorado and southeastern Wyoming. It lives primarily in heavily vegetated riparian habitats and immediately adjacent upland habitats. Habitat loss and degradation caused by agricultural, residential, commercial, and industrial development resulted in the Preble's meadow jumping mouse being listed as a threatened species throughout its range on May 13, 1998 (62 FR 26517).

On July 17, 2000, the Service proposed to designate critical habitat for the Preble's meadow jumping mouse pursuant to the Endangered Species Act (67 FR 47154). The proposed designation includes 19 habitat units totaling approximately 23,248 hectares (57,446 acres) found along 1,058.1 kilometers (657.5 miles) of rivers and streams in Colorado and Wyoming.

Critical habitat identifies specific areas, both occupied and unoccupied, that are essential to the conservation of a listed species and that may require special management considerations or protection. If the proposed rule is made final, section 7 of the Endangered Species Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency; and Federal agencies proposing actions affecting areas designated as critical habitat must consult with us on the effects of their proposed actions, pursuant to section 7(a)(2) of the Endangered Species Act.

Public Comments Solicited

We intend any final action resulting from the proposal to be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the proposed rule.

If you wish to comment, you may submit your comments and materials concerning the proposal by any one of several methods (*see* **ADDRESSES**). If you would like to submit comments by electronic format, please submit them in ASCII file format and avoid the use of special characters and encryption. Please include your name and return e-mail address in your e-mail message. Please note that the e-mail address will be closed out at the termination of the public comment period. If you do not receive confirmation from the system that we have received your message, contact us directly by calling our Colorado Ecological Services Field Office at 303–275–2370.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address, which we will honor to the extent allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comments. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the address listed under **ADDRESSES.**

Public Hearings

The Service will host two public hearings on the proposal on November 21, 2002, at the Jefferson County Courts and Administrative Building at 100 Jefferson County Parkway in Golden, Colorado. The hearings will be held in the First Floor Hearing Room. Information sessions followed by an opportunity to ask questions regarding the proposal will begin at 1 p.m. and 6 p.m. and formal hearings, providing an opportunity to present comments on the proposal, will begin at 2 p.m. and 7 p.m.

Author

The author of this notice is Peter Plage, Colorado Field Office (*see* **ADDRESSES** above), telephone 303–275–2370.

Authority

Authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: October 31, 2002.

Steve Williams,

Director, Fish and Wildlife Service.

[FR Doc. 02–29618 Filed 11–19–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI47

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Nine Bexar County, TX, Invertebrate Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of availability of draft economic analysis; extension of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the draft economic analysis for the proposed designation of critical habitat for nine endangered karst-dwelling invertebrate species pursuant to the Endangered Species Act of 1973, as amended (Act). The proposed rule published in the **Federal Register** on August 17, 2002 (67 FR 55064) and the current comment period is open until November 25, 2002. We are extending the comment period for the proposal to designate critical habitat for these species to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. The draft economic analysis shows a range of likely costs from the designation of the proposed critical habitat, including those costs attributable coextensively to listing, of between $17.8 to $22.1 million over a 10-year period. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this extended comment period, and will be fully considered in the final rule.

DATES: We will accept comments on both the draft economic analysis and the proposed critical habitat designation until December 23, 2002.

ADDRESSES: You may submit written comments and materials concerning the

proposal and draft economic analysis at the hearing or send them directly to Renne Lohoefener, Texas State Administrator, Austin Ecological Services Field Office, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758. Written comments may also be sent by facsimile to 512/490–0974. You may also hand-deliver written comments to our U.S. Fish and Wildlife Service's Austin Ecological Services Field Office at the address given above.

You may view comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, by appointment, during normal business hours in the U.S. Fish and Wildlife Service's Austin Ecological Services Field Office at the above address. You may obtain copies of the proposed rule and draft economic analysis from the above address, by calling 512/490–0057, or from our Web site at *http://ifw2es.fws.gov/Library/*.

FOR FURTHER INFORMATION CONTACT: Bill Seawell, Acting Field Supervisor, U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, at the above address (telephone: 512/490–0057; facsimile: 512/490–0974).

SUPPLEMENTARY INFORMATION: The following nine Bexar County, Texas, invertebrate species were listed as endangered on December 26, 2000 (65 FR 81419): *Rhadine exilis* (ground beetle, no common name); *Rhadine infernalis* (ground beetle, no common name); *Batrisodes venyivi* (Helotes mold beetle); *Texella cokendolpheri* (Cokendolpher cave harvestman); *Cicurina baronia* (Robber Baron Cave meshweaver); *Cicurina madla* (Madla Cave meshweaver); *Cicurina venii* (Braken Bat Cave meshweaver); *Cicurina vespera* (Government Canyon Bat Cave meshweaver); and *Neoleptoneta microps* (Government Canyon Bat Cave spider). All of these species are karst dwelling species of local distribution in north and northwest Bexar County. They spend their entire lives underground.

The proposed critical habitat consists of 25 units (a total of approximately 9,516 acres) in Bexar County, Texas, each encompassing one or more caves or other karst features known to contain one or more of the listed species. ''Karst'' is a type of terrain that is formed by the slow dissolution of calcium carbonate from limestone bedrock by mildly acidic groundwater. This process creates numerous cave openings, cracks, fissures, fractures, and sinkholes and the bedrock resembles a honeycomb (USFWS 1994). Critical habitat identifies areas that are essential to the conservation of a listed species and that may require special management considerations or protection.

The proposed rule published in the **Federal Register** on August 17, 2002 (67 FR 55064) and the current comment period is open until November 25, 2002. We are extending the comment period for the proposal to designate critical habitat for these species to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. We have prepared a draft economic analysis on the effects of the proposed critical habitat designation, and are now announcing its availability for review. The draft analysis estimates the foreseeable economic impacts of the critical habitat designation on government agencies and private businesses and individuals. The draft economic analysis shows a range of likely costs from the designation of the proposed critical habitat of between $17.8 to $18 million over a 10-year period. Extending the comment period will provide the public an opportunity to evaluate and comment on both the proposed rule and the draft economic analysis. Comments already submitted on the proposed designation of critical habitat do not need to be resubmitted as they will be fully considered in the final determinations.

Public Comment Solicited

The final economic analysis concerning the designation of critical habitat for these species will consider information and recommendations from all interested parties. We will accept written comments and information during this extended comment period.

We solicit comments or suggestions from the public, other concerned governmental agencies, tribes, the scientific community, industry, or any other interested parties concerning the proposal or the draft economic analysis. We particularly seek comments concerning:

(1) Plans or potential for development within the area proposed to be designated;

(2) Plans or potential for agricultural land-uses within the area proposed to be designated, which might require a permit under section 404 of the Clean Water Act, or other types of Federal permits; and

(3) The likelihood of ''stigma effects'' and costs associated with the designation; and

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business hours at our office listed in the **ADDRESSES** section.

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

Dated: November 7, 2002.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–29620 Filed 11–19–02; 10:15 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 67, No. 225

Thursday, November 21, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. LS–02–16]

Notice of Request for Emergency Approval of a New Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces that the Agricultural Marketing Service is requesting emergency approval from the Office of Management and Budget for the new information collection, ''Interim Voluntary Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts Under the Agricultural Marketing Act of 1946.''

DATES: Comments must be received by January 21, 2003, to be considered.

ADDRESSES: Send written comments to: (1) Country of Origin Labeling Program, Agricultural Marketing Service, USDA STOP 0249, Room 2092–S, 1400 Independence Avenue, SW., Washington, DC 20250–0249, or fax to (202) 720–3499 or send by E-mail to *cool@usda.gov;* (2) Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 725, Washington, DC 20503, Attention: Desk Officer; and to (3) Clearance Officer, USDA–OCIO, Room 404–W, Jamie L. Whitten Building, STOP 7602, 1400 Independence Avenue, SW., Washington, DC 20250–7602.

All comments will become a matter of public record. Comments will be available for public inspection from the Agricultural Marketing Service (AMS) at the above address and over the Agency's Web site at: *http://www.ams.usda.gov/cool/.*

FOR FURTHER INFORMATION CONTACT: Eric Forman, Associate Deputy Administrator, Fruit and Vegetable Programs, AMS, USDA, at: *eric.forman@usda.gov,* or William Sessions, Associate Deputy Administrator, Livestock and Seed Program, AMS, USDA, at: *william.sessions@usda.gov.*

SUPPLEMENTARY INFORMATION: Title: Interim Voluntary Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts Under the Authority of the Agricultural Marketing Act of 1946.

OMB Number: 0581–XXXX.

Type of Request: New Collection.

Abstract: Section 10816 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171) amended the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) to require the Department of Agriculture (USDA) to issue country of origin labeling guidelines for use by retailers who wish to notify their customers voluntarily of the country of origin of beef (including veal), lamb, pork, fish, perishable agricultural commodities, and peanuts. These guidelines for the interim voluntary country of origin labeling of beef, lamb, pork, fish, perishable agricultural commodities, and peanuts were published in the September 11, 2002, **Federal Register** (67 FR 63367). Public Law 107–171 also requires the Secretary to promulgate requirements for mandatory labeling by September 30, 2004. It is the intent of the Agency that these guidelines, and experience gained through their voluntary adoption by the industry, will serve as the basis of the requirements that will be developed to implement the mandatory labeling program.

The voluntary guidelines prescribe minimum requirements for a recordkeeping system and refer to the enforcement provisions that will be a part of the mandatory program. Recordkeeping is essential to the integrity of any country of origin labeling program, whether it be a voluntary program or a mandatory program. Recordkeeping creates a paper trail that is a critical element in carrying out any internal reviews of a system conducted by industry representatives under a voluntary program or in enforcement audits that will be necessary for the Agency to conduct under the mandatory program. Additionally, the establishment of minimum recordkeeping requirements for the voluntary program serves the industry by providing a basis for the evaluation of compliance with the guidelines, for administering the program, for management decisions and planning, and for establishing the cost of the program. In addition, under the mandatory program, it supports administrative and regulatory actions the Agency may have to take in response to findings of noncompliance.

In general, under the voluntary program, the information collected will be used by industry personnel. It will be created, maintained, and/or submitted by producers, importers, handlers, and retailers. Additionally, it will necessitate that all of these entities have recordkeeping procedures in place.

The burden on each industry sector is discussed below. One major estimate made about each entity is the number of entities likely to participate in this voluntary program. Because the Agency has no basis to determine the level of participation in this program, it has estimated that all industry members that could be affected by the mandatory program will participate in the voluntary program. In estimating the burden hours associated with the recordkeeping requirements imposed on each industry sector, AMS drew upon its experience with the oversight of auditable and verifiable origin-based documented marketing programs already administered by the Agency.

Producers (commercial farms, ranches, and fishermen). USDA estimates that there are approximately 2 million commercial farms, ranches, and fishermen in the United States. Although a number of these farms, ranches, and fishermen may not produce products that are covered by these guidelines, or sell to outlets that would require their suppliers to adopt these guidelines, this analysis assumes that all of these farms, ranches, and fishermen will implement a system for the voluntary labeling of the country of origin for the products these farms, ranches, and fishermen produce. AMS estimates that the time required for a producer to develop a recordkeeping system that would meet the requirements of these guidelines to be 1 day. AMS estimates that the ongoing

time required generating and maintaining the required records to be approximately 1 hour per month. Although AMS recognizes that many large-scale producers, such as large cattle feedlots, will require substantial more time than these estimates, AMS believes that the overall averages presented here to be accurate. For the purposes of this program, AMS also estimates the hourly rate, or value of time for a producer to be $25 per hour.

Accordingly, AMS estimates that the total burden for producers to develop a recordkeeping system that would comply with these guidelines to be 2 million producers × $25 per hour × 8 hours, or $400 million. In addition, AMS estimates that the total annual burden for producers to generate and maintain the records required to comply with these voluntary guidelines to be 2 million producers × $25 per hour × 12 hours, or $600 million. Therefore, the total potential burden of this program on producers in the first year could be $400 million + $600 million, or $1 billion.

Food Handlers (including packers, processors, importers, wholesalers, and distributors): AMS estimates that there are 100,000 food handlers. Although a number of these food handlers may not process or handle products that are covered by these guidelines or sell to outlets that would require their suppliers to adopt these guidelines, this analysis assumes that all of these food handlers will implement a system for the voluntary labeling of the country of origin for the products they process or handle. AMS estimates that the time required for a food handler to develop a recordkeeping system that would meet the requirements of these guidelines to be 2 days. AMS estimates that the ongoing time required generating and maintaining the required records to be approximately 1 hour per week. Although AMS recognizes that many large facilities, such as large-scale meatpackers, will require substantially more time than these estimates, AMS believes that the overall averages presented here to be accurate. For the purposes of this program, AMS also estimates the hourly rate, or value of time for a food handler to be $50 per hour.

Accordingly, AMS estimates that the total burden for food handlers to develop a recordkeeping system that would comply with these guidelines to be 100,000 food handlers x $50 per hour x 16 hours, or $80 million. In addition, AMS estimates that the total annual burden for food handlers to generate and maintain the records required to comply with these voluntary guidelines to be 100,000 food handlers x $50 per hour x 52 hours, or $260 million. Therefore, the total potential burden of this program on food handlers in the first year could be $80 million + $260 million, or $340 million.

Retailers: There are currently approximately 31,000 Perishable Agricultural Commodities Act licensee outlets that would be considered retailers and covered by these voluntary guidelines. Although a number of these retailers may choose not to adopt these guidelines, this analysis assumes that all of these retailers will implement a system for the voluntary labeling of the country of origin for the products they sell. AMS estimates that the time required for a retailer to develop a recordkeeping system that would meet the requirements of these guidelines to be 5 days. AMS estimates that the ongoing time required generating and maintaining the required records to be approximately 1 hour per day. Although AMS recognizes that many large retailers, such as supermarkets, will require substantially more time than these estimates, AMS believes that the overall averages presented here to be accurate. For the purposes of this program, AMS also estimates the hourly rate, or value of time for the employee of a retailer to be $50 per hour and that a retailer will work 7 days a week.

Accordingly, AMS estimates that the total burden for retailers to develop a recordkeeping system that would comply with these guidelines to be 31,000 retailers x $50 per hour x 40 hours, or $62 million. In addition, AMS estimates that the total annual burden for retailers to generate and maintain the records required to comply with these voluntary guidelines to be 31,000 retailers x $50 per hour x 365 hours, or $565.75 million. Therefore, the total potential burden of this program on retailers in the first year could be $62 million + $565.75 million, or $627.75 million.

Annual Reporting and Recordkeeping Burden for the First Year:

Estimated Number of Respondents: 2,131,000.

Total Annual Hours: 59,355,000.

Total Cost: $1,967,750,000.

Comments. Comments are requested on these recordkeeping requirements. Comments are specifically invited on: (1) Whether the recordkeeping is necessary for the proper operation of this voluntary program, including whether the information would have practical utility; (2) the accuracy of USDA's estimate of the burden of the recordkeeping requirements, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the records to be maintained; and (4) ways to minimize the burden of the recordkeeping on those who are to maintain and/or make the records available, including the use of appropriate automated, electronic, mechanical, or other technological recordkeeping techniques or other forms of information technology.

Dated: November 14, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–29602 Filed 11–20–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. # TM–02–09]

Notice of Program Continuation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice Inviting Proposals for fiscal year (FY) 2003 grant funds under the Federal-State Marketing Improvement Program.

SUMMARY: Notice is hereby given that for the Federal-State Marketing Improvement Program (FSMIP) for FY 2003 the Continuing Budget Resolution as well as U.S. House of Representatives and U.S. Senate Appropriations Bills provide $1,347,000, the same amount as for FY 2002. States interested in obtaining funds under the program are invited to submit proposals. While only State Departments of Agriculture or other appropriate State Agencies are eligible to apply for funds, State Agencies are encouraged to involve industry groups and community-based organizations in the development of proposals and the conduct of projects.

DATES: Funds will be allocated on the basis of one round of consideration. Proposals will be accepted through February 14, 2003.

ADDRESSES: Proposals may be sent to: FSMIP Staff, Transportation and Marketing Programs, Agricultural Marketing Service (AMS), U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 4009 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, FSMIP Staff Officer, (202) 720–2704.

SUPPLEMENTARY INFORMATION: FSMIP is authorized under Section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*). FSMIP provides matching grants on a competitive basis

to assist State Departments of Agriculture or other appropriate State agencies in conducting studies or developing innovative approaches related to the marketing of U.S. food and agricultural products. Other organizations interested in participating in this program should contact their State Department of Agriculture's Marketing Division to discuss their proposal.

Proposals are submitted by the State Agency and must be accompanied by completed Standard Forms (SF)–424 and SF–424A. Under this program, AMS will not approve the use of funds for advertising or, with limited exceptions, for the purchase of equipment or facilities. Detailed program guidelines may be obtained from your State Department of Agriculture, the above AMS contact, or the FSMIP Web site: *http://www.ams.usda.gov/tmd/fsmip.htm* .

FSMIP funds can be requested for a wide range of marketing research and marketing service activities, including projects aimed at:

(1) Developing and testing new or more efficient methods of processing, packaging, handling, storing, transporting, and distributing food and other agricultural products;

(2) Assessing customer response to new or alternative agricultural products or marketing services and evaluating potential opportunities for U.S. producers, processors and other agribusinesses, in both domestic and international markets; and,

(3) Identifying problems and impediments in existing channels of trade between producers and consumers of agricultural products and devising improved marketing practices, facilities, or systems to address such problems.

While all proposals which fall within the FSMIP guidelines will be considered, States are encouraged to submit proposals that have regional or national significance and that foster innovation in the following arenas:

(1) Global Economy—preparing U.S. producers to market profitably in a rapidly changing global environment where 96 percent of the world's consumers reside outside the United States;

(2) Consumer-Driven Agriculture—responding to consumer concerns about health and food safety; developing new products that address the needs of the mobile, time-pressed consumer; and studying the uses and value to consumers of food labeling and packaging alternatives;

(3) Agricultural Diversity—identifying niche market opportunities; exploring new markets for agricultural products, such as for industrial and nutraceutical applications; developing value-added products that meet consumer needs while enabling producers to retain a larger share of the food dollar; and developing marketing tools and strategies that will foster long term sustainability of the environment and viable rural communities;

(4) Technical Innovation—using technology to improve food quality, develop new products or processing methods, and address food safety concerns through improved handling processing, or and packaging; and

(5) Transportation and Distribution—fostering efficiencies in the transportation and distribution of U.S. food and agricultural products both domestically and overseas; addressing challenges to exporters of identity-preserved grain and other specialty commodities; assisting small and medium scale producers overcome barriers to accessing new or expanded markets; and applying supply chain management in the marketing system.

FSMIP is listed in the ''Catalog of Federal Domestic Assistance'' under number 10.156 and subject agencies must adhere to Title VI of the Civil Rights Act of 1964, which bars discrimination in all Federally assisted programs.

Authority: 7 U.S.C. 1621–1627.

Dated: November 13, 2002.

A. J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–29531 Filed 11–20–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Uruguay Round Agricultural Safeguard Trigger Levels

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notification of Special Safeguard Duty on Imports of American-type Cheese.

SUMMARY: After reviewing the volume of American-type cheese imports, the Secretary of Agriculture determined that the yearly special safeguard trigger level had been met and a special safeguard duty on imports of American-type cheese would be imposed effective from the date of this notification through December 31, 2002. This additional duty, as described in subheading 9904.05.82 of the Harmonized Tariff Schedule of the United States (HTS), is 35.2 cents per kilogram.

DATES: The additional duty will be effective November 21, 2002 through December 31, 2002.

FOR FURTHER INFORMATION CONTACT: Charles R. Bertsch, Multilateral Trade Negotiations Division, STOP 1022, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–1022, or telephone (202) 720–6278.

SUPPLEMENTARY INFORMATION: U.S. Notes 1 and 2 to Subchapter IV, of Chapter 99 of the HTS, contain the safeguard measures established pursuant to Article 5 of the Agreement on Agriculture (as approved by section 101 of the Uruguay Round Agreements Act). These safeguard measures include the imposition of additional duties based upon the volume of imports into the United States for certain products, including American-type cheese. Subheading 9904.05.82 provides for the imposition of 35.2 cents per kilogram additional duty on imports of American-type cheese upon notification in the **Federal Register** by the Secretary of Agriculture or the Secretary's designated representative that a specific volume of imports has been exceeded (the trigger level for 2002 is 16,528,242 kg).

Subheading 9904.05.82 covers American-type cheese, which enters under subheadings 0406.10.38, 0406.20.39, 0406.20.71, 0406.30.38, 0406.30.71, 0406.90.54, and 0406.90.84 of Chapter 4 of the HTS.

Section 405(a) of the Uruguay Round Agreements Act requires, among other things, that the President shall determine and cause to be published in the **Federal Register** the list of special safeguard agricultural goods and the applicable trigger prices and, on an annual basis, trigger levels. Section 405(b) of that Act provides, in relevant part, that if the President determines with respect to a special safeguard agricultural good that it is appropriate to impose the volume-based safeguard, then the President shall determine the amount of the duty to be imposed, the period such duty shall be in effect, and any other terms and conditions applicable to the duty.

Further to the application of such special agricultural safeguard duties, the President proclaimed on December 23, 1994 (Presidential Proclamation No. 6763) the provisions of U.S. Notes 1 and 2 to Subchapter IV, Chapter 99, of the HTS as well as the automatically applicable safeguard duties set forth in such subchapter upon satisfaction of the requistie conditions. Such U.S. Notes 1 and 2 set forth the other terms and

conditions for application of any such duty.

As also provided in Presidential Proclamation 6763, the President delegated to the Secretary of agriculture the authority to make the determinations and effect the publications described in section 405(a) of the Uruguay Round Agreements Act. The Secretary of Agriculture has further delegated this authority to the Under Secretary for Farm and Foreign Agricultural Services (7 CFR 2.16(a)(3)(x1ii)), who has in turn further delegated such authority to the Administrator of the Foreign Agricultural Service (7 CFR 2.43(a)(42)).

The Administrator determined that the 2002 trigger level for American-type cheese is 16,528,242 kilograms (67 FR 38927), June 6, 2002.

Notice

The Administrator has determined that the amount of American-type cheese imported during 2002 has exceeded the trigger level of 16,528,242 kilograms. In accordance with U.S. Notes 1 and 2, Subchapter IV, Chapter 99 of the HTS and Subheading 9904.05.82 an additional duty of 35.2 cents per kilogram shall apply from the date of publication of this notice through December 31, 2002.

As provided in U.S. Note 1, goods of Canada or Mexico imported into the United States are not subject to such duty. As provided in U.S. Note 2, this duty shall not apply to any goods en route on the basis of a contract settled before the date of publication of this notice.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 02–29599 Filed 11–20–02; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Georgia Transmission Corporation; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact with respect to a request from Georgia Transmission Corporation for financing assistance from RUS to finance the construction of a 230/115 kV substation and a 230 kV transmission line in Cobb County, Georgia.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone (202) 720–0468, e-mail at *bquigel@rus.usda.gov.*

SUPPLEMENTARY INFORMATION: Georgia Transmission Corporation proposes to construct a 230 kV transmission line and substation in western Cobb County, Georgia. The proposed 230/115 kV McConnell Road Substation will be located approximately ½ mile west of the intersection of Lost Mountain Road and Dallas Highway (State Road 120). The proposed transmission line will traverse east from the proposed substation adjacent to Dallas Highway for approximately 6.3 miles and connect to an existing 230 kV transmission line near the intersection of Dallas Highway and Mt. Calvary Road. The transmission line would be supported by steel, single-pole, self-supporting and guyed structures. The proposed transmission line will be constructed as an overbuild of the existing distribution line along Highway 120 between the 230 kV tap point and the Lost Mountain Substation. The distribution line will share the proposed 230 kV transmission line structures with intermediate poles put in place to reduce sag of the distribution conductors. The existing distribution line easement is within the Georgia Department of Transportation Dallas Highway right-of-way. Georgia Transmission Corporation proposes to place the new poles near the same locations as the existing poles wherever possible. However, Georgia Transmission Corporation will need to purchase and clear an additional 20-feet of easement on private property.

Copies of the Finding of No Significant Impact are available from RUS at the address provided herein or from Ms. Gayle Houston of Georgia Transmission Corporation, 2100 East Exchange Place, Tucker, Georgia 30085–2088 telephone (770) 270–7748. Ms. Houston's e-mail address is *gayle.houston@gatrans.com.*

Dated: November 15, 2002.

Blaine D. Stockton,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 02–29596 Filed 11–20–02; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security (BIS).

Title: Licensing Responsibilities and Enforcement.

Agency Form Number: None.

OMB Approval Number: 0694–0122.

Type of Request: Extension of a collection.

Burden: 70,104 hours.

Average Time Per Response: Up to 2.5 hours per response.

Number of Respondents: 145,372 respondents.

Needs and Uses: This information collection package supports the various collections, notifications, reports, and information exchanges that are needed by the Office of Export Enforcement and Customs to enforce the Export Administration Regulations and maintain the National Security of the United States.

(a) *Assumption Writing.* This writing is necessary to establish who will be responsible for compliance with license requirements in the Export Administration Regulations.

(b) *Information sharing requirements.* This information sharing requirement is necessary because the foreign principal and/or his agent has taken on the responsibility for license requirements without necessarily having all the information necessary to make a license determination or obtain a license.

(c) *Power of attorney or other written authorization.* It is necessary to establish the principal/agent relationship in writing, so that BIS can determine who was responsible for compliance of the EAR and the proper party can be charged when a violation of the Export Administration Regulations has occurred.

(d) *Procedures for unscheduled unloading.*

(e) *Return or Unloading at Direction of U.S. Dept of Commerce.* Where there are reasonable grounds to believe that a violation of the EAR has occurred or will occur with respect to a particular export from the U.S., BIS or any U.S. Customs officer may order any person in possession or control of such shipment to return or unload the shipment.

(f) *Destination Control Statement.* The DCS is a preventive enforcement

measure to remind the public that the goods covered by a document that contains the DCS are controlled for export by the U.S. Government and if they plan to export or reexport it they should look at the EAR to make sure they are in compliance.

(g) *Notation on export documents for exports exempt from SED requirements.* The bill of lading or other loading document must be available for inspection along with the items prior to lading on the carrier.

(h) *Exports by U.S. Mail.* Whenever you export items subject to the EAR by mail that meets one of the exemptions for submission of an SED, you must enter the appropriate export authority on the parcel, *i.e.*, either the number of and expiration date of a license issued by BIS, the appropriate License Exception symbol, or NLR ''No License Required'' designator.

(i) *Issuance of License, Responsibility of the licensee.* When required by the license, the licensee is responsible for obtaining written acknowledgment(s) of receipt of the conditions from the parties to whom those conditions apply.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, DOC Paperwork Clearance Officer, Office of the Chief Information Officer (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: November 15, 2002.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–29528 Filed 11–20–02; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security (BIS).

Title: Procedure to Initiate an Investigation under the Trade Expansion Act of 1962, as amended.

Agency Form Number: n/a.

OMB Approval Number: 0694–0120.

Type of Request: Revision.

Burden: 3,000 hours.

Average Time Per Response: 5,000 hours.

Number of Respondents: .6 (6 respondents in 10 years).

Needs and Uses: The information is used by the Secretary of Commerce to conduct an investigation, and to present the Department's findings to the President within 270 days as required by the statute. The statute also requires the Secretary of Commerce to consult with the Secretary of Defense regarding methodology and policy questions that arise during the conduct of an investigation.

During the course of an investigation, Commerce may provide the public with an opportunity to comment and present information and advice relevant to the investigation, including holding public hearings, through a notice in the **Federal Register**. Additional information is gathered from such sources as: surveys of producers, importers, and end-users; on-the-record meetings with interested parties; site visits; and a review of public literature.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, DOC Paperwork Clearance Officer, Office of the Chief Information Officer, (202) 482–0266, Department of Commerce, Room 6625; 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: November 15, 2002.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–29529 Filed 11–20–02; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 021113273–2273–01]

Removal of Person From the Unverified List—Guidance as to ''Red Flags'' Under Supplement No. 3 to 15 CFR Part 732

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice.

SUMMARY: On June 14, 2002, the Bureau of Industry and Security (''BIS'') published a notice in the **Federal Register** that set forth a list of persons in foreign countries who were parties to past export transactions where pre-license checks (''PLC'') or post-shipment verifications (''PSV'') could not be conducted for reasons outside the control of the U.S. Government (''Unverified List''). The notice also advised exporters that the involvement of a listed person as a party to a proposed transaction constitutes a ''red flag'' as described in the guidance set forth in supplement no. 3 to 15 CFR part 732, requiring heightened scrutiny by the exporter before proceeding with such a transaction. The notice also stated that, when warranted, BIS would remove persons from the Unverified List. Recently, a PSV was completed at the facilities of S.B. Submarine Systems Co., Ltd., 1591 Hongqiao Rd., Bldg 15, People's Republic of China, (''S.B. Submarine''). Accordingly, by this notice, S.B. Submarine is removed from the Unverified List.

DATES: This notice is effective November 21, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas W. Andrukonis, Office of Enforcement Analysis, Bureau of Industry and Security, Telephone: (202) 482–4255.

SUPPLEMENTARY INFORMATION: In administering export controls under the Export Administration Regulations (15 CFR parts 730 to 774) (''EAR''), BIS carries out a number of preventive enforcement activities with respect to individual export transactions. Such activities are intended to assess diversion risks, identify potential violations, verify end-uses, and determine the suitability of end-users to receive U.S. commodities or technology. In carrying out these activities, BIS officials, or officials of other federal agencies acting on BIS's behalf, selectively conduct PLCs to verify the *bona fides* of the transaction and the suitability of the end-user or ultimate consignee. In addition, such officials

sometimes carry out PSVs to ensure that U.S. exports have actually been delivered to the authorized end-user, are being used in a manner consistent with the terms of a license or license exception, and are otherwise consistent with the EAR.

In certain instances BIS officials, or other federal officials acting on BIS's behalf, have been unable to perform a PLC or PSV with respect to certain export control transactions for reasons outside the control of the U.S. Government (including a lack of cooperation by the host government authority, the end-user, or the ultimate consignee). In a notice issued on June 14, 2002 (67 FR 40910), BIS set forth an Unverified List of certain foreign end-users and consignees involved in such transactions.

The June 14 notice also advised exporters that the participation of a person on the Unverified List in a proposed transaction will be considered by BIS to raise a ''red flag'' under the ''Know Your Customer'' guidance set forth in supplement no. 3 to 15 CFR part 732 of the EAR. Under that guidance, whenever there is a ''red flag,'' exporters have an affirmative duty to inquire, verify, or otherwise substantiate the proposed transaction to satisfy themselves that the transaction does not involve a proliferation activity prohibited in 15 CFR part 744, and does not violate other provisions of the EAR.

The **Federal Register** notice further stated that persons on the Unverified List would be removed from the list when warranted. BIS has now conducted a PSV in a transaction involving S.B. Submarine Systems Co., Ltd., 1591 Hongqiao Rd., Bldg. 15, People's Republic of China, (''S.B. Submarine''), a person included on the Unverified List. This notice advises exporters that S.B. Submarine is removed from the Unverified List, and the ''red flag'' resulting from S.B. Submarine's inclusion on the Unverified List is rescinded.

The Unverified List, as modified by this notice, is set forth below.

Dated: November 15, 2002.

Michael J. Garcia,

Assistant Secretary for Export Enforcement.

Unverified List as of November 21, 2002

The Unverified List includes names and countries of foreign persons who in the past were parties to a transaction with respect to which BIS could not conduct a pre-license check (''PLC'') or a post-shipment verification (''PSV'') for reasons outside of the U.S. Government's control. Any transaction to which a listed person is a party will be deemed by BIS to raise a ''red flag'' with respect to such transaction within the meaning of the guidance set forth in supplement no. 3 to 15 CFR part 732. The red flag applies to the person on the Unverified List regardless of where the person is located in the country include on the list.

Name	Country	Last known address
Power Test & Research Institute of Guangzhou	People's Republic of China	No. 38 East Huangshi Road, Guangzhou.
Civil Airport Construction Corporation	People's Republic of China	111 Bei Sihuan Str. East, Chao Yang District, Beijing.
Xian XR Aerocomponents Co., Ltd	Peopole's Republic of China	Xujiawen Beijiao, Xian, Shaanxi.
Shaanxi Telecom Measuring Station	People's Republic of China	39 Jixiang Road, Yanta District, Xian Shaanxi.
Beijing San Zhong Electronic Equipment Engineer Co., Ltd.	People's Republic of China	Hai Dian Fu Yuau, Men Hao1 Hao, Beijing.
Huabei Petroleum Administration Bureau Logging Company.	People's Republic of China	South Yanshan Road, Ren Qiu City, Hebei.
Yunma Aircraft Mfg.	People's Republic of China	Yaopu, Anshun, Guizhou.
Daqing Production Logging Institute	People's Republic of China	No. 3 Fengshou Village, Sartu District, Daqing City, Heilongjiang.
Dee Communications MSDN. BHD	Malaysia	G5/G6, Ground Floor, Jin Gereja, Johor Bahru.
Arrow Electronics Industries	United Arab Emirates	204 Arbift Tower, Benyas Road, Dubai.

[FR Doc. 02–29680 Filed 11–20–02; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application to amend an Export Trade Certificate of Review.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, U.S. Department of Commerce, has received an application to amend an Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or E-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 1104H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of

Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 90–5A005.''

The California Kiwifruit Commission and California Kiwifruit Exporters Association's (''CKC'') original Certificate was issued on August 10, 1990 (55 FR 33740, August 17, 1990) and previously amended on November 27, 1990 (55 FR 50204, December 5, 1990); January 29, 1991 (56 FR 4601, February 5, 1991); February 24, 1992 (57 FR 6712, February 27, 1992); and January 14, 2002 (67 FR 2636, January 18, 2002). A summary of the application for an amendment follows.

Summary of the Application

Applicant: California Kiwifruit Commission and California, Kiwifruit Exporters Association, 9845 Horn Road, Suite 160, Sacramento, California 95827.

Contact: Linda LaFrancis, President. Telephone: (916) 362–7490.

Application No.: 90–5A005.

Date Deemed Submitted: November 7, 2002.

Proposed Amendment: CKC seeks to amend its Certificate to:

1. Add each of the following companies as a new ''Member'' of the Certificate within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)): Oppenheimer, David & Associates, LP, Seattle, Washington; and Pacific Trellis Fruit, Reedley, California;

2. Delete the following companies as ''Members'' of the Certificate: Sunny Cal Farms, Reedley, California; and George Brothers, Sultana, California; and

3. Change the listing of the company names for the current Members: Universal Produce Corp. to the new listing Phillips Farms Marketing; Chase National Kiwi Farms, Inc. to the new listing Chase National Kiwi Farms; Kings Canyon/Corrin Sales Corp. to the new listing Kings Canyon Corrin Sales, LLC; Regatta Tropicals to the new listing Regatta Tropicals, LTD; Stellar Distributing to the new listing Stellar Distributing, Inc.; Sun Pacific Marketing Coop. to the new listing Sun Pacific Marketing Cooperative, Inc.; Trinity Fruit Sales Co. to the new listing Trinity Fruit Sales Company; Venida Packing Co. to the new listing Venida Packing, Inc.; and WKS/Wil-Ker-Son Ranch to the new listing WKS Sales.

Dated: November 15, 2002.

Jeffrey C. Anspacher,

Director, Office of Export Trading, Company Affairs.

[FR Doc. 02–29582 Filed 11–20–02; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, U.S. Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or E-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 1104H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 02–00004.'' A summary of the application follows.

Summary of the Application

Applicant: California Pistachio Export Association (''CPEA''), 5497 E. Olive Avenue, Fresno, California 93727.

Contact: Carter Brown, Esquire.

Telephone: (202) 543–4455.

Application No.: 02–00004.

Date Deemed Submitted: November 7, 2002.

Members (in addition to applicant): A&P Growers Cooperative, Inc., Tulare, CA; CalPure Pistachios, Inc., Lost Hills, CA; Gold Coast Pistachios, Inc., Fresno, CA; Keenan Farms, Inc., Avenal, CA; Monarch Nut Company, Delano, CA; Nichols Pistachio, Hanford, CA; Primex Farms, LLC, Wasco, CA; Santa Barbara Pistachio Company, Inc., Santa Barbara, CA; Setton Pistachio of Terra Bella, Inc., Terra Bella, CA; and South Valley Farms, LLC, Wasco, CA.

CPEA seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

Export Trade

1. Products

California in-shell and shelled pistachios, raw and roasted. Including all forms.

2. Export Trade Facilitation Services (as they Relate to the Export of Products)

All export trade-related facilitation services, including but not limited to: Development of trade strategy; sales, marketing, and distribution; foreign market development; promotion; and all aspects of foreign sales transactions, including export brokerage, freight forwarding, transportation, insurance, billing, collection, trade documentation, and foreign exchange; customs, duties, and taxes; and inspection and quality control.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States of

America, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

CPEA and its Members seek to have the following conduct certified:

1. CPEA, on its own behalf or on behalf of all or less than all of its Members, through CPEA or through Export Intermediaries (to the extent provided in section 1.g) may:

a. *Export Sales Prices.* Establish sales price, minimum sales price, target sales price and/or minimum target sales price, and other terms of sale;

b. *Marketing and Distribution.* Conduct marketing and distribution of Products;

c. *Promotion.* Conduct joint promotion of Products;

d. *Quantities.* Agree on quantities of Products to be sold, provided each Member shall be required to dedicate only such quantity or quantities as each such Member shall independently determine;

e. *Market and Customer Allocation.* Allocate geographic areas or countries in the Export Markets and/or customers in the Export Markets among Members;

f. *Refusals to Deal.* Refuse to quote prices for Products, or to market or sell Products, to or for any customers in the Export Markets, or any countries or geographical areas in the Export Markets;

g. *Exclusive and Non-exclusive Export Intermediaries.* Enter into exclusive and non-exclusive agreements appointing one or more Export Intermediaries (as defined under ''Definitions'' paragraph 1) for the sale of Products with price, quantity, territorial and/or customer restrictions as provided in sections 1.a. through 1.f., inclusive, above;

h. *Non-Member Activities.* Purchase Products from non-Members to fulfill specific sales obligations, provided that CPEA and/or its Members shall make such purchases only on a transaction-by-transaction basis and when the Members are unable to supply, in a timely manner, the requisite Products at a price competitive under the circumstances. In no event shall a non-Member be included in any deliberations concerning any Export Trade Activities; and

i. *Transportation Activities.* Negotiate favorable transportation rates (volume discounts) and consolidate shipments.

2. CPEA and its Members may exchange and discuss the following information:

a. Information about sales and marketing efforts for the Export Markets, activities and opportunities for sales of Products in the Export Markets, selling strategies for the Export Markets, sales for the Export Markets, contract and spot pricing in the Export Markets, projected demands in the Export Markets for Products, customary terms of sale in the Export Markets, prices and availability of Products from competitors for sale in the Export Markets, and specifications for Products by customers in the Export Markets;

b. Information about the price, quality, quantity, source, and delivery dates of Products available from the Members to export;

c. Information about terms and conditions of contracts for sale in the Export Markets to be considered and/or bid on by CPEA and its Members;

d. Information about joint bidding or selling arrangements for the Export Markets and allocations of sales resulting from such arrangements among the Members;

e. Information about expenses specific to exporting to and within the Export Markets, including without limitation, transportation, trans- or intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customs, duties and taxes;

f. Information about U.S. and foreign legislation and regulations, including Federal marketing order programs, affecting sales for the Export Markets;

g. Information about CPEA's or its Members' export operations, including without limitation, sales and distribution networks established by CPEA or its Members in the Export Markets, and prior export sales by Members (including export price information); and

h. Information about export customer credit terms and credit history.

3. CPEA and its Members may meet to engage in the activities described in paragraphs 1 and 2 above.

Definitions

1. ''Export Intermediary'' means a person, including a Member, who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing, or arranging for the provision of, Export Trade Facilitation Services.

2. ''Member'' means a person who has membership in the CPEA Export Trade Certificate and who has been certified as a ''Member'' within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1) (2002).

Dated: November 15, 2002.

Jeffrey C. Anspacher,

Director, Office of Export Trading, Company Affairs.

[FR Doc. 02–29583 Filed 11–20–02; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Closed Meeting of the U.S. Automotive Parts Advisory Committee (APAC)

AGENCY: International Trade Administration, Commerce.

ACTION: Announcement of meeting.

SUMMARY: The APAC will have a closed meeting on December 4, 2002 at the U.S. Department of Commerce to discuss U.S.-made automotive parts sales in Japanese and other Asian markets.

DATES: December 4, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, U.S. Department of Commerce, Room 4036, Washington, DC 20230, telephone: 202–482–1418.

SUPPLEMENTARY INFORMATION: The U.S. Automotive Parts Advisory Committee (the ''Committee'') advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Automotive Parts Act of 1998 (Public Law 105–261). The Committee: (1) Reports to the Secretary of Commerce on barriers to sales of U.S.-made automotive parts and accessories in Japanese and other Asian markets; (2) reviews and considers data collected on sales of U.S.-made auto parts and accessories in Japanese and other Asian markets; (3) advises the Secretary of Commerce during consultations with other Governments on issues concerning sales of U.S.-made automotive parts in Japanese and other Asian markets; and (4) assists in establishing priorities for the initiative to increase sales of U.S.-made auto parts and accessories to Japanese markets, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and (5) assists the Secretary of Commerce in reporting to Congress by submitting an annual written report to the Secretary on the sale of U.S.-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to its authorizing legislation. At the meeting, committee members will discuss specific trade and sales expansion programs related to automotive parts trade policy between the United States and Japan and other Asian markets.

The Acting Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on November 15, 2002, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the December 4th meeting of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b(c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: November 15, 2002.

Henry Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 02–29562 Filed 11–20–02; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement (NAFTA), Article 1904 NAFTA Panel Reviews; Decision of the Panel

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Corrected notice of decision of NAFTA panel.

SUMMARY: On October 15, 2002 the NAFTA Panel issued its decision in the matter of Pure Magnesium from Canada, Secretariat File No. USA–CDA–00–1904–06.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiosly the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter was conducted in accordance with these Rules.

Background Information: On August 4, 2000, the Government of Quebec filed a First Request for Panel Review with the U.S. Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the Final Results of the Full Sunset Review made by the International Trade Administration respecting Pure Magnesium from Canada. This determination was published in the **Federal Register** on July 5, 2000 (65 FR 41,436). The request was assigned File No. USA–CDA–00–1904–06.

Panel Decision: The Panel remanded this matter back to the Department (i) for further consideration of the record concerning the ''other factors'' which are required to be taken into account pursuant to our conclusion in sections 2 and 3 of this opinion; (ii) to reconsider whether the normal preference for the investigation rate should not be followed here.

The Panel ordered the Department to issue a determination on remand consistent with the instructions set forth in the Panel's decision. The Panel instructed DOC to provide a report in 45 days detailing how it will comply with these instructions (by November 29, 2002) and to complete the remand within sixty (60) days thereafter (not later than January 28, 2003).

Dated: November 13, 2002.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. 02–29612 Filed 11–20–02; 8:45 am]

BILLING CODE 3510–GT–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Government Owned Invention Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of Government Owned Invention Available for Licensing.

SUMMARY: The invention listed below is owned by the U.S. Government, as represented by the Department of Commerce. The Department of Commerce's interest in the invention is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on the invention may be obtained by writing to: National Institute of Standards and Technology, Technology Partnerships Division, Attn: Mary Clague, Building 820, Room 213, Gaithersburg, MD 20899. Information is also available via telephone: 301–975–4188, e-mail: *mclague@nist.gov,* or fax: 301–869–2751. Any request for information should include the NIST Docket number and title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement (''CRADA'') with the licensee to perform further research on the invention for purposes of commercialization. The invention available for licensing is:

[Docket No.: 01–024US]

Title: Method For Combinatorially Measuring Adhesion Strength.

Abstract: This invention is available for nonexclusive licensing only. A new method for measuring the adhesive strength of polymer materials arranged in a combinatorial library is described. In this invention, a combinatorial library consisting of two parts: A periodic distribution of curved surfaces, such as a lens array, and a complementary substrate. These two library components are brought into contact under controlled displacement conditions. Upon contact, a combinatorial array of polymer interfaces is created. After reaching maximum contact, the two library components are separated at a controlled displacement rate. During both the contact and separation processes, the contact area created by each contact point and the corresponding displacement is recorded. This information of contact area and displacement is used to quantitatively determine the adhesion energy of the polymer interface. Additionally, a qualitative mapping of the combinatorial array is simply given by imaging the contact areas over the entire array. With this information, the conditions for optimal adhesion at the polymer interface can be determined as a function of the parameters varied in the combinatorial library. In addition to empirically determining optimal adhesion conditions for a specific

application, this technique will have significant impact in guiding the molecular engineering of optimized adhesive materials for industries such as, but not limited to, electronic packaging, biomaterials, and coatings.

Dated: November 14, 2002.

Karen H. Brown,

Deputy Director.

[FR Doc. 02–29515 Filed 11–20–02; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing a Meeting of the Computer System Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Computer System Security and Privacy Advisory Board (CSSPAB) will meet Tuesday, December 3, 2002, from 9 a.m. until 5 p.m., Wednesday, December 4, 2002, from 9 a.m. until 5 p.m. and on Thursday, December 5, 2002, from 9 a.m. until 3:30 p.m. All sessions will be open to the public. The Advisory Board was established by the Computer Security Act of 1987 (Pub. L. 100–235) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to federal computer systems. Details regarding the Board's activities are available at *http://csrc.nist.gov/csspab/.*

DATES: The meeting will be held on December 3, 2002, from 9 a.m. until 5 p.m., December 4, 2002, from 9 a.m. until 5 p.m., and December 5, 2002, from 9 a.m. until 3:30 p.m.

ADDRESSES: The meeting will take place at the Washington D.C./North Gaithersburg Hilton Hotel, 620 Perry Parkway, Gaithersburg, Maryland.

Agenda:

—Welcome and Overview
—CSSPAB Work Plan Reports
—GSA Update on E-Authentication Effort
—Updates on Recent Computer Security Legislation
—Update by OMB on Privacy and Security Issues
—Briefing on OMB Enterprise Architecture Effort
—Briefing on NIST Certification and Authentication Effort
—Agenda Development for March 2003 CSSPAB meeting
—Wrap-Up

Note that agenda items may change without notice because of possible unexpected schedule conflicts of presenters.

Public Participation: The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the CSSPAB Secretariat, Information Technology Laboratory, 100 Bureau Drive, Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899–8930. It would be appreciated if 35 copies of written material were submitted for distribution to the Board and attendees no later than November 25, 2002. Approximately 15 seats will be available for the public and media.

FOR FURTHER INFORMATION CONTACT: Dr. Fran Nielsen, Board Secretariat, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899–8930, telephone: (301) 975–3669.

Dated: November 14, 2002.

Karen H. Brown,

Deputy Director.

[FR Doc. 02–29516 Filed 11–20–02; 8:45 am]

BILLING CODE 3510–CN–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110802D]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Fisheries for Dolphin and Wahoo

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

ACTION: Dolphin and wahoo fishery of the U.S. Atlantic coast; request for public comments.

SUMMARY: On June 23, 1999, NMFS, under authority granted to the Secretary of Commerce (Secretary) under the Magnuson-Stevens Fishery Conservation and Management Act, designated the South Atlantic Fishery Management Council (SAFMC) as the council with the administrative lead in jointly preparing and amending a dolphin, *Coryphaena hippurus*, and wahoo, *Acanthocybium solanderi*, Fishery Management Plan (FMP) with the Gulf of Mexico (GMFMC) and Caribbean (CFMC) Fishery Management Councils. The New England (NEFMC) and Mid-Atlantic (MAFMC) Fishery Management Councils already indicated their preference not to manage the stocks directly in their area of jurisdiction, but to limit their participation in such an FMP to an advisory capacity to the SAFMC.

Because of continued logistic delays in finalizing and implementing the jointly developed dolphin and wahoo FMP, and because of identified problems specific to the fishery in the SAFMC's area of jurisdiction (the US. Atlantic coast), on July 16, 2002, the SAFMC requested that the Secretary allow the SAFMC to withdraw from joint preparation of a dolphin and wahoo FMP, and that the Secretary re-designate the SAFMC as lead for a dolphin and wahoo FMP encompassing only the U.S. Atlantic coast (i.e. excluding the Gulf of Mexico and U.S. Caribbean regions).

Public comments are solicited concerning the SAFMC's request.

DATES: Comments must be received no later than 4:30 p.m., eastern standard time, on December 23, 2002.

ADDRESSES: Written comments should be sent to Rolland Schmitten, Acting Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727–570–5583. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Dr. Steve Branstetter, 727–570–5305.

SUPPLEMENTARY INFORMATION: On September 15, 1997, the SAFMC requested that the Secretary designate the SAFMC as lead Council to develop a fishery management plan for dolphin and wahoo. On March 9, 1998, (63 FR 11422) and May 5, 1998, (63 FR 24774), NMFS, on behalf of the Secretary, published notices in the **Federal Register** requesting public comment on the SAFMC's proposal to develop a joint dolphin and wahoo FMP. After considering the SAFMC's request and the public comment received, NMFS designated the SAFMC as the council with the administrative lead in jointly preparing and amending a dolphin and wahoo FMP with the GMFMC and CFMC (64 FR 33468).

The SAFMC's 1997 request to initiate development of a dolphin and wahoo FMP was prompted by public and

Congressional concerns regarding possible localized reductions of these two species because of increased harvesting by commercial and recreational fishermen. The SAFMC believed that an FMP was necessary to protect and manage dolphin and wahoo resources and to address user group conflicts. The Magnuson-Stevens Act requires that, to the extent practicable, stocks shall be managed throughout their range. In the case of dolphin and wahoo, the ranges of these stocks extend beyond the SAFMC's area of jurisdiction. For this reason, NMFS initially designated the SAFMC as administrative lead in the development of a joint FMP in cooperation with the GMFMC, CFMC, NEFMC, and MAFMC.

Nevertheless, the National Standard Guidelines (50 CFR 600.320) suggest that alternative management units may be justified if complementary management is planned for other geographic areas or if the unmanaged portion of the stocks are immaterial to proper management within the area under consideration for the alternate management unit, especially if designated alternate management units are specifically relevant to the FMP's objectives.

In the case of the dolphin and wahoo FMP, social and economic issues are identified as the SAFMC's primary objectives in the FMP. The proposed FMP is not attempting to rectify a biological problem with the stocks; neither stock is overfished nor approaching an overfished condition because of overfishing. The SAFMC has specific objectives to: (1) reduce localized reductions in fish abundance, which can have economic and social impacts; (2) minimize market disruptions from intense landings by all sectors; (3) minimize conflicts and competition between recreational and commercial user groups; and (4) optimize social and economic benefits by recognizing and maintaining the historical importance of the recreational fishery.

No similar economic and social issues requiring management have been identified for the Gulf of Mexico and Caribbean areas. In the Gulf of Mexico, about 90 percent of the combined dolphin and wahoo commercial and recreational landings are from the west coast of Florida. Of the two species, dolphin dominate the landings, and Florida has regulations in place that restrict the commercial harvest of dolphin to hook-and-line fishing in state waters (where most of the harvest occurs), thus limiting the potential for user group conflicts. Similarly, catches and landings for both dolphin and wahoo in the Caribbean are minimal compared to the catches in the other areas, and in many instances, the catches are incidental to the catch of targeted species such as billfishes. Therefore, because of anticipated delays in finalizing a joint FMP, which could lead to exacerbated user conflicts in the South Atlantic's area of jurisdiction (U.S. Atlantic coast), NMFS finds merit in the SAFMC's request to forego further development of a joint FMP, and to develop an FMP for the U.S. Atlantic coast.

Inclusion of dolphin in the proposed FMP also would require removal of the U.S. Atlantic Ocean component of the dolphin stock from management in the Coastal Migratory Pelagics (CMP) FMP. The CMP FMP is implemented under authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622. The CMP FMP is a joint plan involving both the GMFMC and SAFMC, and species in the fishery include king mackerel, Spanish mackerel, cero, cobia, dolphin, little tunny, and in the Gulf only, bluefish. Presently, the only regulations in the CMP FMP that pertain to dolphin are those that specify authorized fishing gears in the Atlantic and Gulf of Mexico exclusive economic zone. Removal of the U.S. Atlantic component of the dolphin stock from the CMP FMP would require a plan amendment and would have to be approved by a majority of the voting members, present and voting, of both the SAFMC and GMFMC. Wahoo in the Atlantic, the Gulf of Mexico, and Caribbean Sea, is not included in any Federal FMP.

NMFS requests public comments on the South Atlantic Council's proposal to be designated as the lead Council to prepare a new FMP to manage dolphin and wahoo for the U.S. Atlantic coast. Written comments will be reviewed and considered prior to NMFS' decision on this request.

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

Dated: November 15, 2002.

Bruce C. Morehead,

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

[FR Doc. 02–29685 Filed 11–20–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111502A]

Southwest Region, Pacific islands Area Office; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Islands Area Office will hold public meetings on November 26 and November 27, 2002, from 3 p.m. to 6 p.m., to gather input to aid in the development of the American Samoa Observer Program.

ADDRESSES: The public meetings will be held at the Utelei Convention Center, Pago Pago, American Samoa.

FOR FURTHER INFORMATION CONTACT: Kevin Busscher, Port Coordinator; telephone: 973–2937, Ext. 215.

SUPPLEMENTARY INFORMATION:

Public Meetings

Public meetings will be conducted to gather input to aid in the development of the American Samoa Observer Program on Tuesday, November 26th and Wednesday November 27th from 3 p.m. to 6 p.m.

Topics to be discussed will include observer placement and specific duties, safety procedures, and vessel reimbursement.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kevin Busscher, 808–973–2937 Ext. 215 (voice) or 808–973–2941 (fax), at least 5 days prior to the meeting date.

Dated: November 15, 2002

Bruce C. Morehead,

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

[FR Doc. 02–29682 Filed 11–20–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110802C]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coral, Coral Reefs, and Live/Hard Bottom Habitats and the Snapper-Grouper Fisheries of the South Atlantic; Exempted Fishing Permit

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

ACTION: Notice of receipt of an application for an exempted fishing permit; request for comments.

SUMMARY: NMFS announces the receipt of an application for an exempted fishing permit (EFP) from Mr. Chris Ivers, Project Manager, on behalf of the North Carolina Aquariums (applicant), Raleigh, North Carolina. If granted, the EFP would authorize the applicant, with certain conditions, to collect up to 50 red porgy and up to 500 lb (227 kg) of coral/live rock each year for two years in Federal waters off North Carolina for public display. The three North Carolina Aquariums are located at Roanoke Island, Pine Knoll Shores, and Kure Beach, North Carolina. This EFP would replace the current EFP which expires on December 31, 2002.

DATES: Comments must be received no later than 5 p.m., eastern time, on December 23, 2002.

ADDRESSES: Comments on the application must be mailed to Peter Eldridge, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727–570–5583. Comments will not be accepted if submitted via e-mail or Internet. The application and related documents are available for review upon written request to the address listed here.

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, 727–570–5305; fax: 727–570–5583; e-mail: *peter.eldridge@noaa.gov*.

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and regulations at 50 CFR 600.745(b), concerning scientific research activity, exempted fishing permits, and exempted educational activity.

According to the applicant, the North Carolina Aquariums (NCA), located at Roanoke Island, Pine Knoll Shores, and Kure Beach, are public, non-profit, self-supporting institutions established to promote an awareness, understanding and appreciation of the diverse natural and cultural resources associated with North Carolina's ocean, estuaries, rivers, streams and other aquatic environments. The aquariums are major educational and conservation institutions with free admission to school children in groups, and extensive field study and outreach programs. The specimens will be maintained in the NCA for public display.

The applicant intends, over a period of 2 years, to collect for public display up to 50 red porgy and up to 500 lb (227 kg) of coral/live rock annually.

The proposed collection for public display involves activities otherwise prohibited by regulations implementing the Fishery Management Plans for Coral, Coral Reefs, and Live/Hard Bottom Habitats and the Snapper-Grouper Fisheries of the South Atlantic Region (FMPs). The applicant requires authorization to harvest and possess corals, live rock, and red porgy off North Carolina.

Based on a preliminary review, NMFS finds that this application warrants further consideration and intends to issue an EFP. A final decision on issuance of the EFP will depend on a NMFS review of public comments received on the application, conclusions of environmental analyses conducted pursuant to the National Environmental Policy Act, and consultations with North Carolina, the South Atlantic Fishery Management Council, and the U.S. Coast Guard. The applicant requests a 24–month effective period for the EFP.

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

Dated: November 15, 2002.

Bruce C. Morehead,

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

[FR Doc. 02–29681 Filed 11–20–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110802B]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coral, Golden Crab, Shrimp, Spiny Lobster, Red Drum, Coastal Migratory Pelagic Resources, and Snapper-Grouper Fisheries of the South Atlantic; Exempted Fishing Permit

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

ACTION: Notice of receipt of an application for an exempted fishing permit; request for comments.

SUMMARY: NMFS announces the receipt of an application for an exempted fishing permit (EFP) from Mr. Steve Vogel III, Curator, South Carolina Aquarium on behalf of the South Carolina Aquarium (applicant), Charleston, South Carolina. If granted, the EFP would authorize the applicant, with certain conditions, to collect an average of 25 specimens each of numerous species of marine invertebrates and marine fish from Federal waters off South Carolina for public display. This EFP would replace a former EFP which expires on December 31, 2002.

DATES: Comments must be received no later than 5 p.m., eastern standard time, on December 23, 2002.

ADDRESSES: Comments on the application must be mailed to Peter Eldridge, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727–570–5583. Comments will not be accepted if submitted via e-mail or Internet.

The application and related documents are available for review upon written request to the address listed here.

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, 727–570–5305; fax 727–570–5583; e-mail: peter.eldridge@noaa.gov.

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and regulations at 50 CFR 600.745(b), concerning scientific research activity, exempted fishing permits, and exempted educational activity.

According to the applicant, the South Carolina Aquarium (SCA), located in

Charleston, is a public, non-profit, self-supporting institution devoted to the understanding and conservation of South Carolina's natural aquatic habitats and is a major educational and conservation institution with free admission to school children in groups, and extensive field study and outreach programs. The specimens will be maintained in the SCA for public display.

The applicant intends, over a period of 2 years, to collect for public display an average of 25 specimens each of 76 species of marine invertebrates and 221 species of marine fish from Federal waters off South Carolina, using a variety of fishing gears and the fish anesthetic, quinaldine.

The proposed collection for public display involves activities otherwise prohibited by regulations implementing the Fishery Management Plans for Coral, Coral Reefs, and Live/Hard Bottom Habitats, Golden Crab, Shrimp, Spiny Lobster, Red Drum, Coastal Migratory Pelagics, Calico Scallop, and Snapper-Grouper Fisheries of the South Atlantic Region (FMPs). The applicant requires authorization to harvest and possess corals, live rock, golden crab, rock shrimp, red drum, wreckfish, Nassau grouper, warsaw grouper, and jewfish taken from Federal waters off South Carolina. In addition, authorization is required to use quinaldine in a coral area and to possess spiny lobster, bluefish, cobia, king and Spanish mackerel, groupers and snappers, greater amberjack, hogfish and red porgy below the minimum size limit, in excess of established bag limits, or taken with prohibited gear.

The applicant also intends to collect a large number of species that are either not subject to Federal fishery management in the South Atlantic Region or are included under a fishery management plan that contains no management measures restricting possession or harvest. The applicant was referred to the Highly Migratory Species Division for authorization to collect highly migratory species such as sharks and tunas for public display.

Based on a preliminary review, NMFS finds that this application warrants further consideration and intends to issue an EFP. A final decision on issuance of the EFP will depend on a NMFS review of public comments received on the application, conclusions of environmental analyses conducted pursuant to the National Environmental Policy Act, and consultations with South Carolina, the South Atlantic Fishery Management Council, and the U.S. Coast Guard. The applicant requests a 24–month effective period for the EFP.

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

Dated: November 15, 2002.

Bruce C. Morehead,

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

[FR Doc. 02–29684 Filed 11–20–02; 8:45 am]

BILLING CODE 3510–22–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed. Copies of the information collection requests can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by January 21, 2003.

ADDRESSES: Send comments to the Corporation for National and Community Service, Jodi Raybuck, Associate Director for Grants Management, Learn and Serve America, 1201 New York Avenue, NW., Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Jodi Raybuck at (202) 606–5000, ext. 529 or *jraybuck@cns.gov.*

SUPPLEMENTARY INFORMATION: Currently, the Corporation is soliciting comments concerning the proposed applications entitled:

a. Learn and Serve America: Higher Education Application Instructions; and

b. Learn and Serve America: School and Community-Based Program Application Instructions.

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the Corporation's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Background

The Corporation publishes application guidelines and notices of funding availability that include information about the funding and requirements. The application instructions provide the information, instructions and forms that potential applicants need to complete an application to the Corporation for funding.

The Corporation has recently developed an electronic grants management system that meets the requirements of Public Law 106–107. As part of the development process, the Corporation is redesigning its application forms and instructions to reflect the electronic system design.

Current Action

Part I

The Corporation seeks public comment on the forms, the instructions for the forms, and the instructions for the narrative portion of these application instructions.

Type of Review: Revised collection.

Agency: Corporation for National and Community Service.

Title: Learn and Serve America Higher Education Application Instructions.

OMB Number: 3045–0046.

Agency Number: None.

Affected Public: Eligible applicants to the Corporation for funding.

Total Respondents: 400 respondents.

Frequency: Once per year.

Average Time Per Response: Six (6) hours.

Estimated Total Burden Hours: 2,400 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Part II

The Corporation seeks public comment on the forms, the instructions for the forms, and the instructions for the narrative portion of these application instructions.

Type of Review: Revised collection.

Agency: Corporation for National and Community Service.

Title: Learn and Serve America School and Community-Based Program Application Instructions.

OMB Number: 3045–0045.

Agency Number: None.

Affected Public: Eligible applicants to the Corporation for funding.

Total Respondents: 225 respondents.

Frequency: Annually.

Average Time Per Response: Ten (10) hours.

Estimated Total Burden Hours: 2,250 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: November 18, 2002.

Jodi Raybuck,

Associate Director for Grants Management, Learn and Serve America.

[FR Doc. 02–29616 Filed 11–20–02; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 21, 2003.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Department of the Army, Office of the Assistant G–1 (Civilian Personnel Policy), Plans and Strategies Division, Hoffman I, ATTN: DAPE–CP–PL (Murray J. Mack), 2661 Eisenhower Avenue, Hoffman I, Room 400, Alexandria, VA 22332–0300. Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports Clearance Officer at (703) 692–1451.

Title: Evaluation Reasons for Non-Acceptance of Department of Army Civilian Job Offers.

Needs and Uses: Applicants for Department of Army civilian jobs will be surveyed to assess reasons why they declined Army jobs offers. The purpose of the survey is to determine which factors contributed to the job candidate's non-acceptance and to make recommendations for improvements.

Affected Public: Individuals or household.

Annual Burden Hours: 292.

Number of Respondents: 2,500.

Responses per Respondent: 1.

Average Burden per Response: 7 minutes.

Frequency: Semi-annually.

SUPPLEMENTARY INFORMATION: This information collection will provide a deeper understanding of the problems the Army faces in recruiting talented and qualified employees. The Department of the Army has a special interest in maintaining a qualified work force in that our national security rests on a foundation of good, capable, knowledgeable people working for the Department of the Army. The purpose of this information collection is to provide a better understanding of which factors influenced job applicants to decline a position with the Department of the Army so that these factors may be addressed and subsequently lead to a better work force.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–29585 Filed 11–20–02; 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. Patent Application Concerning Protective Peptides of Neurotoxin of C. Botulinum

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 U.S. Patent No. 6,287,566 entitled ''Protective Peptides of Neurotoxin of C. Botulinum,'' issued September 11, 2001 and related U.S. Patent Application No. 09/917,791 entitled ''Protective Peptides of Neurotoxin of C. Botulinum,'' filed July 31, 2001. The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, 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: Methods for developing vaccines to protect from neurotoxins of C. botulinum have been developed. Truncated BoNT/A proteins of about 15–30 kDa in size produced immune responses that provided protection from neuronal damage by botulinum neurotoxins.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–29588 Filed 11–20–02; 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. Patent Application Concerning Purification Method and Apparatus

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 U.S. Patent Application No. 09/444.095 entitled ''Purification Method and Apparatus,'' filed November 22, 1999. Foreign rights are also available (PCT/US99/27741). The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, Attn: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Federick, 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: This invention relates to a method, an apparatus, and kit for performing purification of nucleic acids, proteins and cells. More specifically, the invention relates to an apparatus and methods for purification and concentration of nucleic acids, proteins (*e.g.,* antigens and antibodies) and cells without the need of centrifigation, precipitation or lengthy incubations. The apparatus and methods can be adapted to non-specific or specific capture of nucleic acids, proteins or cells in a biological or environmental samples and can be adapted for detection of the captured moiety by enzymatic colorimetric, fluorescent, luminescent or electrochemical formats with or without nucleic acids amplication.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–29587 Filed 11–20–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant a Partially Exclusive Patent License; RMZ Biotech, Inc.

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to RMZ Biotech, Inc., a revocable, nonassignable, partially exclusive, license to practice worldwide the Government-Owned invention described in U.S. Patent Number 5,895,651 entitled ''Recombinant Dengue Virus Envelop Protein/Maltose-Binding Protein Antigens and Subunit Vaccine Compositions Containing Said Antigens,'' issued 20 April 1999, in the field of rapid diagnostic test kits for Dengue Virus infection.

DATES: Anyone wishing to object to the grant of this license has fifteen (15) days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone (301) 319–7428.

ADDRESSES: Written objections are to be filed with the Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Schlagel, Director, Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone (301) 319–7428.

Dated: November 12, 2002.

R.E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–29614 Filed 11–20–02; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant a Partially Exclusive Patent License; U.S. Harvest Postal Protection Services Corp.

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to U.S. Harvest Postal Protection Services, Corp., a revocable, nonassignable, partially exclusive, license to practice worldwide the Government-Owned inventions described in U.S. Patent application Serial No. 10/060605 entitled ''A Rapid and Non-Invasive Method to Evaluate Anthrax Immunization Status,'' filed 30 January 2002, in the field of medical vaccine evaluation tests for salivary anti-anthrax antibodies in U.S. military and Homeland Security Personnel including; hazardous material (HAZMAT), police, fire, and hospital workers.

DATES: Anyone wishing to object to the grant of this license has fifteen (15) days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone (301) 319–7428.

ADDRESSES: Written objections are to be filed with the Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Schlagel, Director, Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone (301) 319–7428.

Dated: November 12, 2002.

R.E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–29613 Filed 11–20–02; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

Federal Interagency Coordinating Council Meeting

AGENCY: Department of Education.

ACTION: Notice of a public meeting.

SUMMARY: This notice describes the schedule and agenda of the forthcoming meeting of the Federal Interagency Coordinating Council (FICC). Notice of this meeting is intended to inform members of the general public of their opportunity to attend the meeting. The FICC will engage in policy discussions related to mental health services for young children with disabilities and their families. The meeting will be open and accessible to the general public.

DATE AND TIME: FICC Meeting: Thursday, December 12, 2002 from 9 a.m. to 4:30 p.m.

ADDRESSES: U.S. Department of Education, Barnard Auditorium, 400 Maryland Avenue, SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Bobbi Stettner-Eaton or Obral Vance, U.S. Department of Education, 330 C Street, SW., Room 3080, Switzer Building, Washington, DC 20202. Telephone: (202) 205–5507 (press 3). Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–5637.

SUPPLEMENTARY INFORMATION: The FICC is established under section 644 of the Individuals with Disabilities Education Act (20 U.S.C. 1444). The FICC is established to: (1) Minimize duplication across Federal, State, and local agencies of programs and activities relating to early intervention services for infants and toddlers with disabilities and their families and preschool services for children with disabilities; (2) ensure effective coordination of Federal early intervention and preschool programs, including Federal technical assistance and support activities; and (3) identify gaps in Federal agency programs and services and barriers to Federal interagency cooperation. To meet these purposes, the FICC seeks to: (1) Identify areas of conflict, overlap, and omissions in interagency policies related to the provision of services to infants, toddlers, and preschoolers with disabilities; (2) develop and implement joint policy interpretations on issues related to infants, toddlers, and preschoolers that cut across Federal agencies, including modifications of regulations to eliminate barriers to interagency programs and activities; and (3) coordinate the provision of technical assistance and dissemination of best practice information. The FICC is chaired by Dr. Robert H. Pasternack, Assistant Secretary for Special Education and Rehabilitative Services.

Individuals who need accommodations for a disability in order to attend the meeting (i.e., interpreting services, assistive listening devices, material in alternative format) should notify Obral Vance at (202) 205–5507 (press 3) or (202) 205–5637 (TDD) ten days in advance of the meeting. The meeting location is accessible to individuals with disabilities.

Summary minutes of the FICC meetings will be maintained and available for public inspection at the U.S. Department of Education, 330 C Street, SW., Room 3080, Switzer Building, Washington, DC 20202, from the hours of 9 a.m. to 5 p.m., weekdays, except Federal holidays.

Robert H. Pasternack,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 02–29522 Filed 11–20–02; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–411–001]

Chandeleur Pipe Line Company; Notice of Compliance Filing

November 15, 2002.

Take notice that on November 12, 2002, Chandeleur Pipe Line Company (Chandeleur) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets listed below to become effective October 1, 2002:

Substitute Fourth Revised Sheet No. 3
Substitute Fifth Revised Sheet No. 18
Substitute Third Revised Sheet No. 18A
Substitute Sixth Revised Sheet No. 19
Substitute Seventh Revised Sheet No. 19A
Substitute Second Revised Sheet No. 19A.01
Substitute Second Revised Sheet No. 19A.02
Substitute Seventh Revised Sheet No. 19B
Substitute Fourth Revised Sheet No. 19C
Substitute Fourth Revised Sheet No. 31
1st Rev Original Sheet No. 31A 1st Rev Third Revised Sheet No. 32
1st Rev Original Sheet No. 32A
Original Sheet No. 47B
Substitute Original Sheet No. 52B
Substitute Original Sheet No. 56A
Fourth Revised Sheet No. 65
Second Revised Sheet No. 65A
Second Revised Sheet No. 67A
Fourth Revised Sheet No. 68
Substitute Sixth Revised Sheet No. 69A

Chandeleur asserts that the purpose of this filing is to comply with the Commission's directives in Docket No. RP02–411–000, issued on September 27, 2002.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. 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. 02–29724 Filed 11–20–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–071]

Columbia Gulf Transmission Company; Notice of Compliance Filing

November 15, 2002.

Take notice that on November 6, 2002, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets with an effective date of November 1, 2002:

Original Sheet No. 20C
Original Sheet No. 20E
Original Sheet No. 20G
Original Sheet No. 20D
Original Sheet No. 20F

Columbia Gulf states that it is filing the tariff sheets to comply with the Commission's orders approving negotiated rate agreements in Docket Nos. RP96–389–052, 054, 055, 060 and 067.

Columbia Gulf states that it has served copies of the filing on all parties identified on the official service list in Docket No. RP96–389.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. 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. 02–29726 Filed 11–20–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2014–004]

Entergy Services, Inc.; Notice of Filing

November 15, 2002.

Take notice that on November 12, 2002, Entergy Services, Inc. (Entergy Services) filed proposed revisions to its proposed Attachment Q (proposed Generator Operating Limits Procedure) to its Open Access Transmission Tariff filed in Docket ER02–2014–000. The proposed Generator Operating Limits Procedure addresses local transmission constraints on the Entergy transmission system and provides an alternate process for generators to participate in short-term bulk power markets.

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, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659. 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: November 25, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–29717 Filed 11–20–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–462–003 and RP01–37–005]

Equitrans, L.P.; Notice of Compliance Filing

November 15, 2002.

Take notice that on November 12, 2002, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets to become effective on November 1, 2002:

First Revised Sheet No. 201
First Revised Sheet No. 227
Second Revised Sheet No. 245
First Revised Sheet No. 246
First Revised Sheet No. 249
Second Revised Sheet No. 253
Second Revised Sheet No. 254
Second Revised Sheet No. 267
First Revised Sheet No. 268
First Revised Sheet No. 269
Second Revised Sheet No. 270
First Revised Sheet No. 271
Second Revised Sheet No. 286
Second Revised Sheet No. 306

Equitrans states that the purpose of this tariff filing is to comply with the Commission's Order issued October 10, 2002, on the compliance by Equitrans with Commission Order Nos. 637, 587–G and 587–L.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. 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. 02–29721 Filed 11–20–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–499–002]

Equitrans, L.P.; Notice of Compliance Filing

November 15, 2002.

Take notice that on November 12, 2002, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Original Sheet No. 276C; and Original Sheet No. 276D, to become effective on October 1, 2002.

Equitrans states that the purpose of this tariff filing is to comply with the Commission's Letter Order, issued in Docket No. RP02–499–000, on September 27, 2002, where the Commission accepted the Equitrans tariff sheets to comply with Commission Order 587-O, subject to its filing certain modifications to include and delete standards in accordance with Version 1.5 of the North American Energy Standards Board.

Equitrans further states that Original Sheet Nos. 276C and 276D were not originally filed on October 9, 2002, because they had previously been filed in another proceeding. However, in an order issued October 10, 2002, in Equitrans' Docket Nos. RP00–462–001, *et al.*, the Commission indicated that this proceeding is the proper proceeding for their filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be

filed in accordance with Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. 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. 02–29725 Filed 11–20–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–392–001]

Kern River Gas Transmission Company; Notice of Compliance Filing

November 15, 2002.

Take notice that on November 13, 2002, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Substitute Original Sheet No. 7, with an effective date of September 1, 2002.

Kern River states that the purpose of this filing is to revise Kern River's tariff to reflect the correct FERC Annual Charge Adjustment of $.0021/Dth for Rate Schedules KRF–L1 and KRI–L1 for service on the High Desert Lateral.

Kern River states that it has served a copy of this filing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. 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.

Dated:

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–29723 Filed 11–20–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR03–1–000]

Phillips Petroleum Company, Complainant v. Platte Pipe Line Company, Respondent; Notice of Complaint

November 15, 2002.

Take notice on November 14, 2002, pursuant to Rule 206 of the Commission's Rules of Practice and Procedure (18 CFR 385.206) and the Procedural Rules Applicable to Oil Pipeline Procedures (18 CFR 343.1(a)), Phillips Petroleum Company (Phillips) filed a Complaint in the captioned proceeding. Phillips alleges that Platte Pipe Line Company (Platte) has violated and continues to violate the Interstate Commerce Act, 49 U.S.C. App. 1 *et seq.*, by charging unjust, unreasonable, unduly preferential, and unduly discriminatory rates for its pump-over service which transfers crude oil to the Frontier Pipeline Company at Casper, Wyoming, as more fully set forth in the Complaint.

Phillips requests that the Commission: (1) Examine Platte's challenged rates for its interstate pump-over service at Casper; (2) order refunds and/or reparations to Phillips, including appropriate interest thereon, for the applicable refund and/or reparation periods to the extent the Commission finds that such rates are unlawful; (3) determine just, reasonable, and nondiscriminatory rates for Platte's jurisdictional interstate pump-over service; (4) award Phillips reasonable attorneys' fees and costs; and (5) order such other relief as may be appropriate.

Phillips states that it has served the Complaint on Platte. Pursuant to Rule 343.3 of the Commission's Procedural Rules Applicable to Oil Pipeline Proceedings, Platte's response to this Complaint is due within 30 days of the filing of the Complaint.

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, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. 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: December 5, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–29718 Filed 11–20–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–13–005>

Portland Natural Gas Transmission System: Notice of Compliance Filing

November 15, 2002.

Take notice that on November 12, 2002, Portland Natural Gas

Transmission System (PNGTS) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, to become effective on November 12, 2002:

3rd Rev. Sheet 100
1st Rev. Sheet 201
1st Rev. Original Sheet 302
1st Rev. Original Sheet 303
1st Rev. Original Sheet 304
1st Rev. Original Sheet 305
1st Rev. Original Sheet 306
1st Rev. Original Sheet 307
1st Rev. Sheet 504
1st Rev. Sheet 510
1st Rev. Sheet 511

PNGTS asserts that the purpose of its filing is to comply with the Commission's order issued on October 10, 2002 in Docket No. RP02–13–001. That order required PNGTS to modify its tariff to ensure that its long-term firm seasonal service is available on a nondiscriminatory basis.

PNGTS states that copies of this filing are being served on all jurisdictional customers, applicable state commissions, and participants in Docket No. RP02–13–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. 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. 02–29722 Filed 11–20–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–055]

TransColorado Gas Transmission Company; Notice of Compliance Filing

November 15, 2002.

Take notice that on November 13, 2002, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Fifty-Fourth Revised Sheet No. 21 and Twenty-Seventh Revised Sheet No. 22A , to be effective November 13, 2002.

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000.

TransColorado states that the tendered tariff sheets propose to revise TransColorado's Tariff to reflect an amended negotiated-rate contract with Williams Energy Marketing & Trading Company.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. 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. 02–29727 Filed 11–20–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01–12–000]

Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design

November 14, 2002.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of technical conference agenda.

SUMMARY: As announced in the Notice of Technical Conferences issued on October 22, 2002, Commission staff will convene a technical conference on November 19, 2002 to discuss aspects of the resource adequacy requirement proposed in the Notice of Proposed Rulemaking issued in this docket on July 31, 2002. *See* 67 FR 65, 913–15 (Oct. 29, 2002). This notice provides further organizational details and the conference agenda.

DATES: The conference will take place on November 19, 2002.

ADDRESSES: The conference will take place at: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Sarah McKinley, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8004.

SUPPLEMENTARY INFORMATION:

Notice of Technical Conference Agenda

1. As announced in the Notice of Technical Conferences issued on October 22, 2002, Commission staff will convene a technical conference on November 19, 2002 to discuss aspects of the resource adequacy requirement proposed in the Notice of Proposed Rulemaking issued in this docket on July 31, 2002. This notice provides further organizational details and the conference agenda.

2. The conference will begin at 9:30 a.m. and will adjourn at about 5:15 p.m. It is scheduled to take place at the Commission's offices, 888 First Street, NE., Washington, DC, in the Commission Meeting Room on the

second floor. The agenda is appended to this notice as Attachment A. As specified in the October 22, 2002 Notice, the discussions will attempt to clarify and seek consensus on specific issues. The discussion questions are appended to this notice as Attachment B.

3. The conference is open for the public to attend, and registration is not required; however, in-person attendees are asked to notify the Commission of their intent to attend by sending an e-mail message to *customer@ferc.gov.* Members of the Commission may attend the conference and participate in the discussions.

4. Transcripts of the conference will be immediately available from Ace Reporting Company (202–347–3700 or 1–800–336–6646), for a fee. They will be available for the public on the Commission's FERRIS system two weeks after the conference. Additionally, Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, via C-Band Satellite. Persons interested in receiving the broadcast, or who need information on making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection web site at *http://www.capitolconnection.gmu.edu* and click on ''FERC.''

5. Questions about the conference program should be directed to: Sarah McKinley, Manager of State Outreach, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8368, *sarah.mckinley@ferc.gov.*

Linwood A. Watson, Jr.,

Deputy Secretary.

Attachment A

Schedule

9:30–9:35 AM Introductions
9:35–9:45 AM Opening Remarks Kevin Kelly, Commission Staff
9:45–11:15 AM Session I

Panelists:

Regina M. Carrado, Regulatory Specialist, Exelon Corporation, Exelon Generation, L.L.C.
David LaPlante, Vice President, Markets Development, ISO New England Inc.
Ronald G. Lukas, Senior Vice President, KeySpan Energy Supply, LLC
Marc Montalvo, Manager of Wholesale Market Analytics, Lacapra Associates, Inc., on behalf of the Pennsylvania Office of Consumer Advocates
Karen Krug O'Neill, Vice President, New Markets, Green Mountain Energy
Mark Reeder, Chief, Regulatory Economics, New York Public Service Commission

11:15–11:30 AM Break
11:30–1:00 PM Session II

Panelists:

Michael Alcantar, Attorney, Alcantar & Kahl LLP, on behalf of the Cogeneration Association of California (CAC) and the Energy Producers and Users Coalition (EPUC)
Kieran Connolly, Public Utilities Specialist, Bonneville Power Administration
Kellan L. Fluckiger, Senior Advisor to the Chair and CEO, California Consumer Power and Conservation Financing Authority
John Meyer, Vice President of Asset Commercialization, Reliant Resources
Charles Reinhold, WestConnect RTO Project Manager, Electric Resource Strategies
Gary Stern, Director of Market Monitoring and Analysis, Southern California Edison Company
To be determined, Silicon Valley Manufacturing Association

1:00–2:00 PM Lunch
2:00–3:30 PM Session III

Panelists:

James Caldwell, Policy Director, American Wind Energy Association
William F. Hall, III, Senior Vice President, Energy Policy & Strategy, Duke Energy Corporation
William J. Head, Chief Operating Officer, MAPPCOR, representing the Mid-Continent Area Power Pool
Stephen L. Huntoon, Senior Director & Regulatory Counsel, Dynegy Power Marketing, Inc.
Sam Randazzo, Partner, McNees, Wallace & Nurick, LLC, on behalf of Ohio Industrial Consumers
Rick Riley, Director, Transmission Policy, Entergy Services, Inc. on behalf of SeTrans Sponsors
Raymond J. Wahle, P.E., Director, Power Supply and Operations, Missouri River Energy Services

3:30–3:45 PM Break
3:45–5:15 PM Session IV

Panelists:

The Honorable Thomas Welch, Chairman, Maine Public Utilities Commission
The Honorable Robert B. Nelson, Commissioner, Michigan Public Service Commission
Richard Campbell, Director, Energy & Technology, American Forest & Paper Association
David R. Nevius, Vice President, North American Electric Reliability Council
Roy Shanker, Consultant and Participant of the Northeast Joint Capacity Adequacy Group
David M. Velazquez, Vice President, Business Planning, Conectiv Energy Supply Inc., on behalf of The Edison Electric Institute (EEI) and the Alliance of Energy Suppliers

Attachment B

Discussion Questions

Each panel will discuss the following questions:

1. Should there be a standard resource adequacy plan for the entire grid?
a. If not, what other measures can be used to ensure regional resource adequacy?
2. For LSEs in states with bundled retail sales which have met state planning guidelines, what more must the ITP do?
a. Should the ITP independently verify that the guidelines have been met?
b. Should the ITP ensure the physical deliverability of identified resources?
c. Should the ITP verify that no resources have been double counted on a regional basis?
d. Is there value to coordinating these state planning guidelines regionally?
3. What should the resource adequacy product requirement be?
a. Combination energy/call contracts requirement.
b. Capacity requirements, where energy and capacity are separate products sold in the market. The seller of a capacity product would be obligated to offer energy into the market.
4. How should the penalty structure on deficient LSEs be set?
a. Is a penalty on LSEs in real time sufficient?
b. Should an LSE who failed to meet its forward obligation in the appropriate planning horizon be able to avoid a real-time penalty by procuring its resources past the deadline?
5. What disincentives should exist for adequacy suppliers to prevent non-performance?
6. Should the resource adequacy requirement be met solely through bilateral contracts or should a centralized market (accommodating bilateral contracts) be available?
7. What process should be implemented if the ITP identifies a shortage of planned resources?
a. Should the ITP implement a market to ensure such resources are available?
b. If so, who should pay for the availability of such resources?

c. Further, should existing resources be able to participate in such a market?

8. How will the ITP ensure deliverability of adequacy resources?

a. Must resources be physically identified to meet the adequacy requirement?

b. Should liquidated damages contracts without specific resources identified be sufficient?

c. How should transmission rights to distant generation sources be allocated to meet the adequacy requirement?

9. What guidelines should the Regional State Advisory Committee (RSAC) follow in determining the planning horizons and adequacy procurement deadlines?

a. Should a ladder approach to procurement be allowed? This approach would require LSEs to procure an increasing percentage of their total adequacy requirement at intermediate points during the span of the planning horizon.

10. What should the RSAC process be to determine each region's adequacy requirement?

11. What should be the relationship between the RSAC and the ITP in the load forecasting and resource evaluation process?

12. How should each LSE's obligation be set in a fluid retail access environment? a. Should the adequacy product necessarily be liquid and fungible?

13. How can demand resources be measured to count equally toward adequacy requirements?

14. How can intermittent resources be evaluated to count appropriately toward adequacy?

[FR Doc. 02–29461 Filed 11–20–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2964–006]

City of Sturgis, Michigan; Notice of Availability of Final Environmental Assessment

November 15, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a new license for the Strugis Hydroelectric Project located on the St. Joseph River, in St Joseph County, Michigan, and has prepared a Final Environmental Assessment (FEA) for the project. In the FEA, the Commission's staff has analyzed the potential environmental effects of the project and has concluded that approval of the project, with appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. 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 toll free 1–866–208–3676.

Any comments should be filed within 30 days from the issuance date of this notice and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1-A, Washington, DC 20426. Please affix ''Sturgis Project No. 2964'' to all comments. Comments 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 website under the ''e-Filing'' link. For further information, contact Patrick Murphy at (202) 502–8755.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–29719 Filed 11–20–02; 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

November 15, 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 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) 502–8659.

Exempt

Docket No.	Date filed	Presenter or requester
1. Project No. 2574–000	11–08–02	Bonnie Newson (Frank Winchell)
2. Project Nos. 10100–000 and 10416–000	11–08–02	Judith Leckrone Lee
3. CP01–384–000	11–14–02	Particia A. Karkul

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–29720 Filed 11–20–02; 8:45 am]

BILLING CODE 6717–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Meeting of the Board of Directors of the Export-Import Bank of the United States

Time and Place: Tuesday, November 26, 2002, at 9:30 am. The meeting will be held at Export-Import Bank in Room 1143, 811 Vermont Avenue., NW., Washington, DC 20571.

Open Agenda Items: Draft Revised Economic Impact Procedures, Annual Review of the Jordanian Framework Agreement.

Public Participation: The meeting, or a portion thereof, will be open to public observation.

FOR FURTHER INFORMATION CONTACT: Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571, (Telephone No. (202) 565 3857 or 3336).

Peter B. Saba,

General Counsel.

[FR Doc. 02–29787 Filed 11–19–02; 2:12 pm]

BILLING CODE 6690–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, November 21, 2002, Meeting open to the public. The starting time has been changed to 1 p.m.

The following item has been added to the agenda: FEC Policy Statement: Interim Reporting Procedures.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 02–29806 Filed 11–19–02; 3:18 pm]

BILLING CODE 6715–01–M

GENERAL SERVICES ADMINISTRATION

Office of Management Services; Revision of an Optional Form

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration is revising the OF 55, U.S. Government Identification to update the address in the ''If found * * *'' statement.

Since the form is authorized for local reproduction, agencies may request a camera copy to use for printing from:

Forms Management, (202) 501–0581, e-mail: *barbm.williams@gsa.gov;* or

The Internet: *http://www.gsa.gov/forms.*

DATES: Effective November 21, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

SUPPLEMENTARY INFORMATION:

Dated: November 7, 2002.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 02–29604 Filed 11–20–02; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the National Advisory Council for Healthcare Research and Quality

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal advisory Committee Act, this notice announces a meeting of the National Advisory Council for Healthcare Research and Quality.

DATES: This meeting will be held on Tuesday, December 10, from 8:30 a.m. to 4 p.m. and is open to the public.

ADDRESSES: The meeting will be held at the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Room 800, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Anne Lebbon, Coordinator of the Advisory Council, at the Agency for Healthcare Research and Quality, 2101 East Jefferson Street, Suite 600, Rockville, Maryland 20852, (301) 594–7216. For press-related information, please contact Karen Migdail at (301) 594–6120.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact Mr. Donald L. Inniss, Director, Office of Equal Employment Opportunity Program, Program Support Center, on (301) 443–1144 no later than December 5, 2002.

Agenda, roster, and minutes are available from Ms. Bonnie Campbell, Committee Management Officer, Agency for Healthcare Quality and Research, 2101 E. Jefferson Street, Suite 400, Rockville, Maryland 20852. Her phone number is (301) 594–1846. Minutes will be available after December 31, 2002.

SUPPLEMENTARY INFORMATION:

I. Purpose

Section 921 of the Public Health Service Act (42 U.S.C. 299c) established the National Advisory Council for Healthcare Research and Quality. In accordance with its statutory mandate, the Council is to advise the Secretary of the Department of Health and Human Services and the Director, Agency for Healthcare Research and Quality (AHRQ), on matters related to actions of the Agency to enhance the quality, improve the outcomes, reduce the costs of health care services, improve access to such services through scientific research, and to promote improvements in clinical practice and in the organization, financing, and delivery of health care services. The Council is composed of members of the public appointed by the Secretary and Federal ex-officio members.

II. Agenda

On Tuesday, December 10, 2002, the meeting will begin at 8:30 a.m., with the call to order by the Council Chairwoman. The Acting Director, AHRQ, will present the status of the Agency's current research, programs, and initiatives. Tentative agenda items include AHRQ's research on health care costs, on long term care and on patient safety. The official agenda will be available on AHRQ's Web site at *http://www.ahrq.gov* no later than December 2, 2002. The meeting will adjourn at 4 p.m.

Dated: November 13, 2002.

Carolyn M. Clancy,

Acting Director.

[FR Doc. 02–29589 Filed 11–20–02; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–05–03]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under

review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Longitudinal Surveillance for Beryllium Disease Prevention OMB No. 0920–0463 (formerly titled Gene-Environment Interactions in Beryllium Sensitization and Disease Among Current and Former Beryllium Industry Workers)—Extension—National Institute for Occupational Safety and Health (NIOSH)—Centers for Disease Control and Prevention (CDC).

Background

Beryllium is a light weight metal with wide application in modern technology. The size of the USA workforce at risk of beryllium exposure is estimated at approximately one million, with exposed workers in primary production, nuclear power and weapons, aerospace, scrap metal reclaiming, specialty ceramics, and electronics industries. Demand for beryllium is growing worldwide, which means that increasing numbers of workers are likely to be exposed. An acute pneumonitis due to occupational exposure to beryllium was common in the 1940s and 1950s, but has virtually disappeared with improvements in work-site control measures. However, even with improved controls as many as 5% of currently-exposed workers will develop chronic beryllium disease (CBD).

CBD is a chronic granulomatous lung disease mediated through a poorly understood immunologic mechanism in workers who become sensitized. Sensitization can be detected using a blood test, that is used by the industry as a surveillance tool. The blood test for sensitization was first reported in 1989, but many questions remain about the natural history of sensitization and disease, as well as exposure risk factors. Sensitized workers, identified through workplace surveillance programs, undergo clinical diagnostic tests to determine whether they have CBD. The proportion of sensitized workers who have beryllium disease at initial clinical evaluation has varied from 41–100% in different workplaces. Sensitized workers often develop CBD with follow-up, but whether all sensitized workers will eventually develop beryllium disease is unknown. Early diagnosis at the subclinical stage and careful follow-up seems prudent in that CBD usually responds to corticosteroid treatment. However, the efficacy of screening in preventing adverse outcomes of the disease has not yet been evaluated. Research has indicated certain genetic determinants in the risk of CBD; follow-up studies will be invaluable for further characterizing the genetic contribution to sensitization and disease.

The National Institute for Occupational Safety and Health (NIOSH) wants to determine how beryllium workers and former workers develop beryllium disease and how to prevent it. Through the proposed study, NIOSH has the opportunity to contribute to the scientific understanding of this disease in the context of environmental and genetic etiologic factors. The goals of this investigation are to: (1) Determine the occurrence of beryllium sensitization or disease; (2) seek an association with exposure measurements; (3) explore genetic determinants of susceptibility to CBD; and (4) characterize genetic determinants to ascertain if they are associated with clinical impairment or progression of disease. Through a greater understanding of the environmental and genetic risk factors associated with the onset and progression of CBD, NIOSH will be able to develop strategies for both primary and secondary prevention applicable to beryllium-exposed workers. The total annualized burden for this data collection is 263 hours.

Respondents	Number of respondents	Number of responses/respondent	Avg. burden/response (in hours)
Former Workers	525	1	30/60

Dated: November 13, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–29669 Filed 11–20–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Termination of Two Food and Drug Administration Advisory Committees: Medical Imaging Drugs Advisory Committee and the Pharmacy Compounding Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the termination of two FDA advisory committees: The Medical Imaging Drugs Advisory Committee, a nonstatutory advisory committee to FDA's Center for Drug Evaluation and Research (CDER), and the Pharmacy Compounding Advisory Committee, a statutory committee to the FDA's Center for Drug Evaluation and Research.

DATES: November 21, 2002.

FOR FURTHER INFORMATION CONTACT: Linda Ann Sherman, Director Advisory Committee Oversight and Management Staff (HF–4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1220.

SUPPLEMENTARY INFORMATION: Under its current charter, the Medical Imaging Drugs Advisory Committee will expire on February 28, 2004. The Medical Imaging Drugs Advisory Committee is responsible for: (1) Reviewing and evaluating data concerning the safety and effectiveness of marketed and investigational human drug products for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and for use as contrast media in diagnostic radiology and (2) making appropriate recommendations to the Commissioner of Food and Drugs. The Commissioner has determined that a separate advisory committee for these products is not necessary as these products can be more effectively reviewed by an existing advisory committee or a by a subcommittee of an existing committee with responsibility for providing advice and recommendations regarding the specific systemic product area at issue with a given product.

The charter for the Pharmacy Compounding Advisory Committee was renewed February 3, 2002, for a 2-year

term. This Committee was created by section 503A(d)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 353a(d)(1)). Section 503a(d)(1) specifically directed the Secretary of Health and Human Resources to convene and consult an advisory committee on compounding.

On April 29, 2002, the *United States Supreme Court in Thompson, et al.* v. *Western States Medical Center Pharmacy, et al.*, 122 S.Ct. 1497 (2002), affirmed a decision of the U.S. Court of Appeals for the Ninth Circuit invalidating section 503A of act. Section 503A of the act, enacted as part of the Food and Drug Administration Modernization Act of 1997, exempted drugs compounded by pharmacies from the act's new drug approval, adequate directions for use, and good manufacturing practice requirements if specified conditions, including two restrictions on commercial speech, were met. The Supreme Court held that these two speech related restrictions violate the first amendment to the U.S. Constitution. The Ninth Circuit had also concluded that these unconstitutional speech restrictions may not be severed from the rest of the provisions in section 503A of the act, and that section 503A is invalid in its entirety. Because neither the Government nor the compounding pharmacy plaintiffs sought review of this aspect of the Ninth Circuit's decision, the Supreme Court did not reach the issue. As a result, the Ninth Circuit's invalidation of section 503A of the act in its entirety stands. Because the entire section 503A of the act is invalid, the statutory authorization for an advisory committee on compounding no longer exists.

For the reasons stated previously, the Medical Imaging Drugs Advisory Committee and the Pharmacy Compounding Advisory Committee are terminated.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2)).

Dated: November 14, 2002.

Linda Arey Skladany,

Senior Associate Commissioner for External Relations.

[FR Doc. 02–29573 Filed 11–20–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Establishment of Medical Device User Fee Rates for Fiscal Year 2003 and Interim Procedures

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the rates and interim procedures for medical device user fees for fiscal year (FY) 2003. The Federal Food, Drug, and Cosmetic Act (the act), as amended by the Medical Device User Fee and Modernization Act of 2002 (MDUFMA) (Public Law 107–250), authorizes FDA to collect user fees for certain medical device applications. This notice establishes fee rates for FY 2003. These fees are effective for applications submitted on October 1, 2002, and will remain in effect through September 30, 2003. However, FDA may not begin to collect these fees until enabling appropriations are enacted. FDA will issue invoices for all fees payable for applications submitted between October 1, 2002, and 30 days after the date of the **Federal Register** notice the agency will issue after enactment of enabling appropriations. Those invoices will be due and payable within 30 days of issuance. Subsequently, fees must be submitted to FDA at the time that applications are submitted.

ADDRESSES: Visit the FDA Web site that provides further information on MDUFMA at http://www.fda.gov/cdrh/mdufma/index.html.

FOR FURTHER INFORMATION CONTACT: Frank Claunts, Office of Management and Systems (HFA–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4427.

SUPPLEMENTARY INFORMATION:

I. Background

The act establishes fees in sections 737 and 738 (21 U.S.C. 379i and j) for different kinds of medical device applications. Fees are assessed on certain types of medical device applications and supplements. When certain conditions are met, FDA may waive or reduce fees (21 U.S.C. 379j(d) and (e)).

For FY 2003 through FY 2007, MDUFMA establishes revenue amounts for the aggregate of all application fee revenues. Revenue amounts established for years after FY 2003 are subject to adjustment for inflation, workload, and revenue shortfalls from previous years. Fees for applications are to be established each year by FDA so that revenues will approximate the levels established in the statute, after those amounts have first been adjusted for inflation, workload, and, if required, revenue shortfalls from previous years.

This notice establishes fee rates for FY 2003. These fees are effective on October 1, 2002, and will remain in effect through September 30, 2003.

II. Inflation, Workload, and Compensating Adjustment Process

MDUFMA provides that fee revenue amounts for each FY after 2003 shall be adjusted for inflation. The adjustment must reflect the greater of: (1) The total percentage change that occurred in the Consumer Price Index (all items, U.S. city average) during the 12-month period ending on June 30 preceding the FY for which fees are being set, or (2) the total percentage pay change for the previous FY for Federal employees stationed in the Washington, DC metropolitan area. MDUFMA provides for this annual adjustment to be cumulative and compounded annually after 2003 (21 U.S.C. 379j(c)(1)). No inflation adjustment is to be made with respect to fee revenue amounts established in the statute for FY 2003.

For each FY beginning in FY 2004, MDUFMA provides that fee revenue amounts, after they have been adjusted for inflation, shall be further adjusted to reflect changes in workload for the process for the review of medical device applications (21 U.S.C. 379j(c)(2)). No workload adjustment is to made be with respect to fee revenue amounts established in the statute for FY 2003.

For each FY beginning in FY 2004, MDUFMA provides that fee revenue amounts, after they have been adjusted for inflation and workload, shall be further adjusted, if necessary, to compensate for any shortfall in fee revenue from previous years (21 U.S.C. 379j(c)(3)). No compensating adjustment is to be made with respect to fee revenue amounts established in the statute for FY 2003.

Inflation, workload, and compensating adjustments do not apply to the revenue amounts established in MDUFMA for FY 2003.

III. Fee Calculations for FY 2003

MDUFMA establishes the fee for a premarket application (PMA) at $154,000 in FY 2003. All other fees are set as a percent of this fee. At these rates, the medical device user fees are expected to generate $25,125,000 in FY 2003. The applications subject to fees, the rate of each fee as a percent of a premarket application, and the FY 2003

fee rate are set out in table 1 of this document. For all applications other than premarket notification submissions, the small business rate is 38 percent of the full fee rate. For premarket notification submissions, there is no small business rate in FY 2003. In FY 2004 and subsequent fiscal years, fees for premarket notification submissions will be set so that a small business fee will be 80 percent of a full application fee.

TABLE 1.—FEE TYPES, PERCENT OF PMA FEE, AND FY 2003 FEE RATES

Application Fee Type	Full Fee Amount as a Percent of PMA Fee (percent)	FY 2003 Full Fee (dollars)	FY 2003 Small Business Fee (dollars)
PMA (submitted under section 515(c)(1) or 515(f) of the act or section 351 of the Public Health Service Act (PHS Act))		154,000	58,520
Premarket Report (PMR) (submitted under section 515(c)(2) of the act)	100	154,000	58,520
Panel Track Supplement (to an approved PMA or PMR that requests a significant change in design or performance of the device, or a new indication for use of the device, and for which clinical data are generally necessary to provide reasonable assurance of safety and effectiveness)	100	154,000	58,520
Efficacy Supplement (to an approved PMA under section 351 of the PHS Act)	100	154,000	58,520
180-Day Supplement (to an approved PMA or PMR that is not a panel track supplement and requests a significant change in components, materials, design, specification, software, color additives, or labeling)	21.5	33,110	12,582
Real Time Supplement (to an approved PMA or PMR that is not a panel track supplement and requests a minor change to the device, such as a minor change to the design of the device, software, manufacturing, sterilization, or labeling, and for which the applicant has requested and the agency has granted a meeting or similar forum to jointly review and determine the status of the supplement)	7.2	11,088	4,213
Premarket Notification (submitted under section 510(k) of the act)	1.42	2,187	None in FY 2003

IV. Adjustment for Excess Collections in Previous Years

Under the provisions of MDUFMA, if the agency collects more fees than were provided for in appropriations in any year, FDA is required to reduce its anticipated fee collections in a subsequent year by that amount (21 U.S.C. 379j(h)(4)). No adjustments under this provision are required for fees assessed in FY 2003.

V. Implementation of Fee Collections

A. No Fees May Be Collected Until Enabling Appropriations are Enacted

Under section 738(h) of the act, fees authorized by MDUFMA may neither be collected nor available for obligation unless they are first provided for in appropriation acts. For this reason FDA is not able to accept or deposit any fee revenues until such appropriations are enacted for FY 2003. Therefore, no fees are to be submitted until such appropriations are enacted. After the enactment of enabling appropriations, FDA will publish another notice in the **Federal Register** with detailed payment instructions.

B. Procedures for Firms Seeking to Qualify for Small Business Exemption for First PMA or for Lower Fees for Subsequent Applications.

Firms with gross sales and revenues of $30 million or less, including gross sales and revenues of all affiliate, partner, and parent firms, may qualify for a waiver of the fee for their first PMA, and for lower rates for subsequent PMAs, PMRs, and supplements. Such firms may also qualify for lower rates for premarket notification submissions in FY 2004 and subsequent years. To qualify, these firms will have to submit certified copies of their Federal income tax return for the most recent taxable year, including certified copies of the income tax returns of their affiliate, partner, and parent firms. More detailed procedures for qualifying for small business first-time PMA waiver and lower rates will also be included in the **Federal Register** notice published after the date of enabling appropriations.

C. Subsequent Payment of Fees

Any application or supplement subject to fees under MDUFMA that is submitted after September 30, 2002, is subject to the fee set out in table 1 of this document. FDA will issue invoices for all fees payable for applications submitted between October 1, 2002, and 30 days after the date of the **Federal Register** notice the agency will issue after enactment of enabling appropriations. Those invoices will be due and payable within 30 days of issuance. Subsequently, fees must be submitted to FDA at the time that applications are submitted.

Payment, when due, must be made in U.S. currency by check, bank draft, or U.S. postal money order payable to the order of FDA. More complete payment instructions will be included in the **Federal Register** notice published after the date of enabling appropriations.

Dated: November 15, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–29572 Filed 11–20–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Countercurrent Chromatography Separation of Polar Sulfonated Compounds

Adrian Weisz, Yoichiro Ito (NHLBI)

DHHS Reference No. E–304–2002 filed 26 Aug 2002.

Licensing Contact: Dale Berkley; 301/435–5019; *berkleyd@od.nih.gov.*

The invention is a method and apparatus for separating a quantity of a sulfonated polar compound from other compounds in a mixture using countercurrent chromatography. The inventors have found that countercurrent chromatography techniques may be employed to separate different species of polar sulfonated compounds that have resisted isolation in preparative amounts by other chromatographic methods. Countercurrent chromatography is a technique that has been used to separate a variety of compound mixtures, but has not been previously employed to separate multigram quantities of polar sulfonated compounds without use of a ligand. In one embodiment, pH-zone-refining countercurrent chromatography has been found especially successful in this application. It has also been found that the use of an X-type planetary centrifuge is beneficial to obtaining good results. For two particular species of polar sulfonated compounds, the use of a cross-axis (X1.5L-type) centrifuge successfully separated preparative quantities (100 mg, gram, or multi-gram quantities) of material to greater than 99% purity. The cross axis centrifuge facilitated the use of polar solvent systems with high retention of the stationary phase, resulting in successful separation and/or purification of large quantities of polar compounds.

MRI Navigator Methods and Systems

Vinay Pai, Han Wen (NHLBI)

DHHS Reference No. E–164–2002 filed 16 Sep 2002.

Licensing Contact: Dale Berkley; 301/435–5019; *berkleyd@od.nih.gov.*

The invention is a non-breathhold flow sensitive navigator (FLOSEN) technique for reducing respiratory motion artifacts in MR images that tracks the cardiac position using a blood flow based complex difference scheme. The approach tracks the fast moving blood during systole as a marker for the heart position, while stationary or slow moving spins are suppressed. By this approach, the position of the heart can be determined directly, without needing fractional correlation with the diaphragm motion. The method uses a spoiled-Fast Low Angle Shot (FLASH) sequence and incorporates an alternating pair of bipolar velocity-encoding gradients. This method appears to be capable of resolving heart motions greater than +/-0.1 pixel. The navigator based on the position of the fast moving blood volume in the left ventricle may be applied prospectively to shift a subsequent imaging slice to compensate for subject motion, and thereby provide MRI images with increase clarity and resolution.

Method for Functional Kidney Imaging Using Small Dendrimer Contrast Agents

Martin Brechbiel (NCI), Robert Star (NIDDK), Hisataka Kobayashi

DHHS Reference No. E–151–2002 filed 26 Aug 2002.

Licensing Contact: Dale Berkley; 301/435–5019; *berkleyd@od.nih.gov.*

The invention is a method for functional kidney imaging using small dendrimer-based MRI contrast agents that transiently accumulate in renal tubules. The accumulation enables visualization of renal structure and function, permitting assessment of structural and functional damage to the kidneys. Six small dendrimer-based MRI contrast agents have been synthesized, and their pharmacokinetics, whole body retention and renal MRI images were evaluated in mice. Surprisingly, despite having unequal renal clearance properties, all of the dendrimer agents clearly visualized the renal anatomy and proximal straight tubules of the mice better than Gd-[DTPA]-dimeglumine. Dendrimer conjugate contrast agents prepared from PAMAM-G2D, DAB-G3D and DAB-G2D dendrimers were excreted rapidly and may be acceptable for use in clinical applications.

Modified Defensins and Their Use

Dr. Joel Moss et al. (NHLBI)

DHHS Reference No. E–080–2002/0 filed 19 Feb 2002.

Licensing Contact: Marlene Shinn; 301/435–4426; *shinnm@od.nih.gov.*

The ubiquitous use of antibiotics has resulted in the selection of bacteria that are relatively resistant to these drugs. Furthermore, few drugs are effective against viral and fungal microorganisms. There is therefore a continuing need to identify novel agents that reduce or inhibit the growth of such microorganisms, or to identify ways of modifying existing agents in order to give them superior antimicrobial activities, or to identify agents that may recruit inflammatory cells.

Defensins are broad-spectrum antimicrobial molecules that act against infectious agents and play important roles in the innate immune defense in vertebrates. These molecules exhibit a wide range of antimicrobial activities, including cytotoxicity towards bacteria cells, but are also cytotoxic for mammalian cells, which limits their usefulness as antimicrobial agents. The NIH announces the creation of modified defensins through their arginine residues. These compounds can be used to inhibit the toxic effect of defensins, while retaining their T cell chemotactic properties and promoting recruitment of inflammatory cells. In the case of pulmonary disease, these agents can be delivered directly to the site of inflammation by inhalation.

Dated: November 8, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer National Institutes of Health.

[FR Doc. 02–29559 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the President's Cancer Panel.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other

reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: President's Cancer Panel.

Date: December 7, 2002.

Time: 1 p.m. to 5 p.m.

Agenda: Overcoming Barriers to Cancer Care.

Place: Marriott Wardman Park Hotel, 2660 Woodley Road Northwest, Washington, DC 20008.

Contact Person: Maureen O. Wilson, PhD, Executive Secretary, National Cancer Institute, National Institutes of Health, 31 Center Drive, Building 31, Room 3A18, Bethesda, MD 20892, 301/496–1148.

Information is also available on the Institute's/Center's home page: *deainfo.nci.nih.gov/advisory/pcp/pcp.htm,* when an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–29552 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, NIDDK Mentored Research Scientist Development Award.

Date: December 3, 2002.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 2-Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John Connaughton, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 757, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–7797, *connaughton@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–29544 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Ischemic/Reflow Injury in Aging Heart.

Date: December 3–4, 2002.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn by Mariott, Downtown Bethesda, 7335 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Ramesh Vemuri, PhD, National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Study of Menopause.

Date: December 3–4, 2002.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Alicja L. Markowska, PhD, DSC, Scientific Review Office, Gateway Building/Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20817.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: November 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–29545 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, SBIR Phase II: Topic #70: Detection and Assessment of Urologic and Renal Diseases.

Date: December 6, 2002.

Time: 3 pm to 4:30 pm.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6707 Democracy Blvd. Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 754, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799, *Is38z@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–29546 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Anorexia Nervosa and Bone Health.

Date: December 10, 2002.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6707 Democracy Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Maria E. Davila-Bloom, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 758, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, 301–594–7637, *davila-bloomm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Weight Reduction and Malnutrition.

Date: December 11, 2002

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6707 Democracy Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Carolyn Miles, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 755, 6707 Democracy Boulevard; National Institutes of Health, Bethesda, MD 20892, (301) 594–7791, milesc@extra.niddk.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–29547 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Data Repository.

Date: December 12, 2002.

Time: 8 am to 5 pm.

Agenda: To review and evaluate contract proposals.

Place: Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Maxine A. Lesniak, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 756, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7792, *lesniakm@extra.niddk.nih.gov.*

Name of Committee: National Institutes of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, George M. O'Brien Kidney Research Centers.

Date: December 17–19, 2002.

Time: 7 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Crystal City Courtyard by Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Neal A. Musto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 751, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7798, *muston@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–29548 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, RO3HD043773–01 DIAS JAMES.

Date: November 20, 2002.

Time: 3 p.m. to 4 p.m..

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd 5th Floor, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health,

6100 Bldg Rm 5B01, Rockville, MD 20852, (301) 435–6889, *bhatnagg@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: November 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–29550 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. the grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Special Emphasis Panel Teleconference.

Date: January 14, 2003.

Time: 2:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20982, (Telephone Conference Call).

Contact Person: Laura K. Moen, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–12, Bethesda, MD 20892, 301–594–3998, *moenl@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: November 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–29551 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel UTERINE TRANSPLANTATION IN BABOONS.

Date: December 9, 2002.

Time: 4 PM to 5:30 PM.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: November 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–29553 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel THORNBURG, KENT L.

Date: November 20, 2002.

Time: 1:30 p.m. to 2:50 p.m.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd, Room 5B01, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, National Institute of Child Health, and Human Development, National Institutes of Health, 6100 Bldg Rm 5B01, Rockville, MD 20852, (301) 435–6889, *bhatnagg@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.208, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: November 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–29554 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH OF HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel P01HD039942–02S1 DONAHOE, PATRICIA.

Date: November 20, 2002.

Time: 9:30 a.m. to 10:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd, Room 5B01, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Bldg Rm 5B01, Rockville, MD 20852 (301) 435–6889, *bhatnagg@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: November 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–29555 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Demographic Behavioral Science-R25.

Date: November 25, 2002.

Time: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd, Room 5B01, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Carla T. Walls, Phd, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, 9000 Rockville Pike, MSC 7510, 6100 Building, Room 5e03, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: November 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–29556 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Recombinant DNA Advisory Committee.

Date: December 4–6, 2002.

Time: December 4, 2002, 1 pm to 5:15 pm.

Agenda: The Committee will discuss a clinical trial for X-linked SCID, and selected safety and protocol data related to human gene transfer clinical trials.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Agenda: The Committee will discuss a clinical trial for X-linked SCID, selected safety and protocol data related to human gene transfer clinical trials, and review selected human gene transfer protocols.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Time: December 6, 2002, 8:30 am to 1 pm.

Agenda: The Committee will review selected human gene transfer protocols.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Stephen M. Rose, Phd, Executive Secretary, Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Room 750, Bethesda, MD 20892, 301–496–9838, *sr8j@nih.gov.*

Information is also available on the Institute's/Center's home page: *www4.od.nih.gov/oba/,* where an agenda and any additional information for the meeting will be posted when available.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected

to follow the NIH Guidelines. In lieu of the individual program listing. NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–29549 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 CVB(04)S: Nodal bundles.

Date: November 26, 2002.

Time: 11 a.m. to 12:15 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Rm. 4128, MSC 7814, Bethesda, MD 20892, (301) 435–1850, *dowellr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–C (02) BBBP–7 Member Reviews in the Physiology of Speech and Swallowing.

Date: December 2, 2002.

Time: 11 am to 12:30 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mary Sue Krause, MED, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892, 301–435–0902, *Krausem@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 BIO (2) Improved Adenoviral Vectors For Hepatic Gene Therapy.

Date: December 4, 2002.

Time: 1 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael M. Sveda, PhD, Scientific Review Administrator, Biochemistry Study Section, Biochemical Sciences IRG, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892, 301–435–3565, *svedam@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Photo products as Anticancer Agents.

Date: December 5, 2002.

Time: 3 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sharon K. Gubanich, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7804, Bethesda, MD 20892, (301) 435–1767.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–C (05) BBBP—2 Member reviews in Stress, Depression and Cardiovascular Function.

Date: December 5, 2002.

Time: 3:30 pm to 4:30 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mary Sue Krause, MED, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892, 301–435–0902, *krausem@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cancer Therapy.

Date: December 20, 2002.

Time: 3 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6208, MSC 7804, Bethesda, MD 20892, (301) 435–1718. *perkinsp@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–29543 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, EAR.

Date: December 4, 2002.

Time: 2 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Joseph Kimm, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892, (301) 435–1249.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Tumor Immunology I.

Date: December 4, 2002.

Time: 5 pm to 6 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892, (301) 435–1152, *edwardss@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Tumor Immunology II.

Date: December 5, 2002.

Time: 1 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892, (301) 435–1152, *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, EAR.

Date: December 9, 2002.

Time: 1 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Joseph Kimm, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892, (301) 435–1249.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Immunology—T cell development.

Date: December 11, 2002.

Time: 1 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892, (301) 435–1152, *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Diabetes and Vascular Function.

Date: December 16, 2002.

Time: 2:30 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ann A. Jerkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7892, Bethesda, MD 20892, (301) 435–4514.

(Catalogue of Federal Domestic Assistance Programs Nos. 93.306, Comparative Medicine, 93.333, Clinical Research, 93.333, 93.337, 93.939–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–29557 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: AIDS and Related Research Integrated Review Group. AIDS and Related Research 6.

Date: November 18–19, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Ranga V. Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, *srinivar@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306, 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–29558 Filed 11–20–02; 8:45 am]

BILLING CODE 4140–01–M

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 December 23, 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: Roger D. Barker, Birmingham, AL, PRT–064497.

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: Anthony S. Makris, Alexandria, VA, PRT–064413.

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: Tom L. Peveler, Lovington, NM, PRT–064499.

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: Circus Tihany, Sarasota, FL, PRT–064004.

The applicant requests a permit to export, re-export, and re-import a captive-born tiger (*Panthera tigris*) and its future progeny 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.

Applicant: Lost Creek Animal Sanctuary Foundation, Mound Valley, KS, PRT–061855.

The applicant requests a permit to export, re-export, and re-import captive-born tigers (*Panthera tigris*) and their future progeny to/from Canada to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three-year period.

Applicant: Memphis Zoo, Memphis, TN, PRT–052166.

The applicant requests a permit to import one male and one female captive born giant panda (*Ailuropoda melanoleuca*) from the Chinese Association of Zoological Gardens, Shanghai Zoo and Beijing Zoo, China, for the purpose of scientific research and enhancement of the survival of the species through captive propagation.

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: November 1, 2002.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–29534 Filed 11–20–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Reopening of Public Comment Period for the Technical/Agency Draft Revised Recovery Plan for the Red-Cockaded Woodpecker (*Picoides borealis*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of reopening of public comment period.

SUMMARY: We, the Fish and Wildlife Service, announce that we are reopening the comment period for the Technical/Agency Draft Revised Recovery Plan for the Red-cockaded Woodpecker. We are reopening the comment period to enter into the record a revised ''Recovery Units'' section that discusses our approach to conducting jeopardy analyses as part of interagency consultation under section 7 of the Endangered Species Act. We solicit review and written comments from the public on this section of the recovery plan.

DATES: We must receive comments by December 23, 2002.

ADDRESSES: You may obtain a copy of the technical/agency draft revised recovery plan (July 2000) by downloading or printing a copy from *http://rcwrecovery.fws.gov* (under the recovery plan link). If you wish to comment, you may submit your comments by any one of several methods:

1. You may submit written comments to the Field Supervisor, Clemson Field Office, U.S. Fish and Wildlife Service, Clemson University, Clemson, South Carolina 29634 (telephone 864/656–2432).

2. You may fax your comments to the Field Supervisor at 864/656–1350.

3. You may send comments by electronic mail to the Field Supervisor at *ralph_costa@fws.gov*

Comments and materials received are available upon request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Costa (*see* **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

Background

Red-cockaded woodpeckers (RCW) are endemic to mature pine woodlands of the southeastern United States. Because of habitat loss and alteration associated with clearing forests for settlements, agriculture, and commercial forestry operations, during the later part of the 19th century and early part (through the 1930s) of the 20th century, the RCW suffered severe population declines. We officially listed the RCW as an endangered species on October 13, 1970 (35 FR 16047). The original recovery plan for the RCW was approved on August 24, 1979, and subsequently revised on April 11, 1985. Research has greatly increased our understanding of the ecology of the RCW to the point where we now have management tools that have proven successful in increasing the acres of optimum RCW habitat, and RCW numbers, in the past decade. The draft revised recovery plan developed in July 2000 (65 FR 55269) describes the ecology and management of red-cockaded woodpeckers in detail and outlines the management necessary to recover the species based on new insight into population viability.

Section 7(a)(2) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*) requires Federal agencies to consult with us to ensure that the actions they authorize, fund, or carry out will not jeopardize the continued existence of a federally listed species. To jeopardize means to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species (50 CFR 402.02). The majority of Federal actions that we consult on are not found to jeopardize listed species. In most consultations, the proposed action is not found to jeopardize the listed species although some incidental take of the species may occur. In those cases, we work with the Federal agency to devise reasonable and prudent measures that will minimize the effects of such incidental take to the species. In the few cases where we determine that a proposed federal project would jeopardize a listed species, we work with the Federal agency to determine reasonable and prudent project alternatives.

In analyzing whether or not the proposed project will jeopardize a listed species, our general policy, as outlined in our Consultation Handbook (Procedures for Conducting

Consultation and Conference Activities Under Section 7 of the Endangered Species Act, March 1998) is to analyze the total impacts of the proposed project on the entire species (or the entire subspecies or vertebrate population if the listed entity is a subspecies or vertebrate population). However, for some wide-ranging species, or those with disjunct or fragmented distributions, we may perform this analysis by recovery units. Recovery units are geographic or otherwise identifiable subunits of the listed entity that individually are necessary to conserve genetic robustness, demographic robustness, important life stages, or some other feature necessary for long-term sustainability of the overall listed entity. Therefore, an action that would jeopardize a recovery unit would jeopardize the species. Defining the value of each recovery unit to the whole in the recovery plan, therefore, simplifies the analysis of whether the action jeopardizes the species. In these species, we may base our jeopardy analyses on assessment of impacts to an individual recovery unit determined as necessary to both the survival and recovery of the species in a final recovery plan. The red-cockaded woodpecker is a wide-ranging species with a fragmented distribution and as such, we have determined that the establishment of recovery units would facilitate jeopardy analyses under section 7.

In the draft revised Recovery Plan, we have defined primary and secondary core populations and essential, significant, and important support populations. Some or all of these types of populations may occur within a recovery unit. A primary core population is one that will harbor at least 350 potential breeding groups at the time of delisting. Populations of this size are above minimum estimates necessary to withstand threats of extirpation from demographic stochasticity, environmental stochasticity, and inbreeding depression. However, even a population of less than 350 breeding groups is not considered capable of retaining sufficient genetic variability for long-term viability in the absence of immigration. Secondary core populations are those that will harbor at least 250 potential breeding groups at the time of delisting. A population of 250 breeding groups is the minimum estimate considered necessary to withstand threats of extirpation from environmental stochasticity, and is considered highly robust to threats from demographic stochasticity and inbreeding depression. These populations are not large enough to withstand threats to long-term viability from the process of genetic drift unless immigration is maintained (naturally or via translocation).

All populations not designated a primary or secondary core are designated support populations. There are three classifications of support populations—essential, significant, and important. Essential support populations are those populations, identified in downlisting and delisting recovery criteria, that represent unique habitat types and/or geographic locations within the historic range that cannot support a larger, core population. These populations will harbor 15 to 100 potential breeding groups at the time of delisting. Significant support populations are populations, not identified in recovery criteria, that contain or have a population goal of 10 or more potential breeding groups. A population size of 10 potential breeding groups, if highly aggregated in space, has a good probability of persistence over a 20-year time period. Important support populations are populations, not identified in recovery criteria, that contain and/or have a population goal of less than 10 potential breeding groups.

Support populations are important reservoirs of genetic resources. They help represent natural variation in habitats occupied by RCWs. Support populations are an important source of immigrants for core populations to increase retention of genetic variation and could potentially provide a buffer against stochastic loss of core populations. These functions are especially critical now, because many core populations are currently well below the population sizes necessary to withstand threats of environmental, demographic, and genetic uncertainty.

The 13 primary core populations, 12 secondary core populations, and numerous support populations of RCWs are well distributed throughout the species' range, within the 11 recovery units. This widespread distribution serves several critical ecological objectives. First, such a distribution conserves RCWs in varied habitats and geographic regions in which they currently exist. Second, the wide distribution and relatively high number of populations reduces the threat of species extinction from catastrophic events such as hurricanes. Finally, core populations, along with support populations, together create a network which, when population goals are reached, will facilitate the natural dispersal among populations and recovery units that is necessary and critical to long-term genetic viability.

The following text is the portion of the Recovery Plan that we have revised to clarify how we will analyze whether a proposed action will jeopardize the continued existence of the species.

Recovery Units

Recovery Units are geographic or otherwise identifiable subunits of the listed entity that individually are necessary to conserve genetic robustness, demographic robustness, important life history stages, or some other feature necessary for long-term sustainability of the overall listed entity. The Recovery units established for red cockaded-woodpeckers are a surrogate for likely genetic variation and adaptation to local environments, because they are based on changing environmental conditions, *i.e.*, they are geographic areas delineated according to ecoregions. Substantial genetic variation has been documented in red-cockaded woodpeckers across their range, although distinct boundaries for this variation have not been identified. Red-cockaded woodpeckers exhibit a correlation between genetic variation and geographic distance, meaning the farther apart populations are geographically, the larger the genetic variation. This has been documented using both randomly amplified polymorphic DNA (used as a genetic marker) and allozyme data. As molecular markers gain resolution, we may be able to identify more distinct genetic boundaries, but the correlation between genetic variation and geographic distance is a classic sign of species that were once distributed primarily as a continuous population.

The names of red-cockaded woodpecker recovery units are the same as their respective ecoregion, with one exception (South/Central Florida). There are eleven designated recovery units for red-cockaded woodpeckers. All but two recovery units contain one or more core recovery populations and one or multiple support populations. The remaining two recovery units contain support populations only.

Maintaining viable populations within each recovery unit is essential to the survival and recovery of the red-cockaded woodpecker across its range. Conservation of populations in all habitats, forest types, and ecoregions, represented within and by recovery units is critical to the species survival and recovery primarily because these varied populations have crucial ecological and genetic values. The loss, or reduction of the likelihood of survival and recovery, of core and

essential support populations within one or more of the designated recovery units could not only jeopardize the recovery goals for the individual recovery unit(s), but also jeopardize the recovery of the entire species in several ways.

First, without immigration, no red-cockaded woodpecker population will be large enough to avoid loss of genetic variability through genetic drift. Genetic drift results in loss of genetic variation, which may reduce a species' ability to adapt and persist in a changing environment (ecoregion), and thereby reduce its viability over long time periods. One practical way to reduce the threat of genetic drift is to promote immigration, both natural (dispersal) and artificial (via translocation). Multiple recovery units, harboring all of the habitat types and representing all ecoregions where the red-cockaded currently exists, provide the means to ensure that natural and artificial immigration can occur and be managed, respectively.

Second, the vast majority of red-cockaded woodpecker populations are threatened today by demographic stochasticity and will remain so for the foreseeable future. Therefore, the short-term survival of many individual populations in most recovery units is dependent upon translocated birds from other recovery units. Because donor populations for many small (less than 30 potential breeding groups), at-risk populations are in adjacent recovery units, actions adversely affecting donor populations in one recovery unit can jeopardize the survival and recovery of populations in other recovery units, thereby jeopardizing the entire species.

A third and significant threat to red-cockaded woodpecker populations are catastrophes, including hurricanes and outbreaks of southern pine beetles, which point to several reasons for identifying and conserving multiple recovery units. First, red-cockaded woodpecker populations in similar habitats/forest types and with more closely related genetic makeup may occur in recovery units adjacent to those impacted by the catastrophic event, thus helping ensure that the ability of the species to adapt to these ecological conditions of habitat and forest type would be protected. Second, by maintaining a number of recovery units, with their associated populations, that are broadly spaced geographically, and including as many inland populations as possible, the threat from catastrophic loss is significantly reduced. Additionally, when losses do occur in one recovery unit, other recovery units can be relied upon to supply birds for population restoration programs, thereby ensuring the continued likelihood of survival and recovery of the species.

To achieve and maintain species viability, we must maintain a network of interacting populations within and between recovery units. This strategy will promote natural immigration from support and core populations, over the long-term, within and between recovery units, thereby reducing the species susceptibility to loss of genetic viability through genetic drift. If, in the future, natural immigration rates are determined to be inadequate to reach or maintain genetic variability, artificial immigration (via translocation) within and between recovery units will be necessary to ensure the survival and recovery of the red-cockaded woodpecker. Similarly, the recovery unit system provides the means today and into the future to overcome the threats of demographic stochasticity via translocation of birds. Additionally, the recovery unit system provides the opportunity to respond aggressively to stabilize and restore recovery units and populations impacted by catastrophic events. Thus, the system of recovery units, with respective primary core, secondary core, and support populations, provides the foundation of the strategy to recover the red-cockaded woodpecker.

Recovery Units as the Basis for Jeopardy Analysis in Interagency Consultation

In the past, exceptions from applying the jeopardy standard (*see* ''Background'' section) to an entire species were granted by a Director's memorandum, dated March 3, 1986, for specific populations of a species. Since the mid-1980's, in compliance with the Director's 1986 memorandum, we conducted jeopardy analyses for the red-cockaded woodpecker at the ''population'' level.

Our guidance on this topic changed with the release of our Consultation Handbook in 1998. The Handbook states that when determining whether the action jeopardizes the continued existence of the species, we are to analyze the total impacts of the proposed project on the entire species. However, the Handbook acknowledges that for some wide-ranging species, this analysis can be facilitated by the establishment of recovery units in a final recovery plan. The Consultation Handbook notes that species' recovery plans provide the best available scientific information relative to the areas and environmental elements needed for the species to recover, and may even describe recovery units essential to recovering the species. Given that actions that appreciably impair or preclude the capability of such a recovery unit from providing the survival and recovery functions identified for it in a recovery plan may therefore represent jeopardy to the species, the Consultation Handbook indicates the jeopardy standard may be applied to individual recovery units identified as necessary for survival and recovery of the species in an approved final recovery plan. Thus, the designation of recovery units in recovery plans facilitates recovery both by focusing the species' recovery program on the need to conserve the geographic, demographic, and genetic features of the recovery unit for its contribution to the whole species, and by facilitating the evaluation of potential jeopardy to the species when the survival and recovery of an individual recovery unit is in question.

Previous Federal Action

On September 13, 2000, we published in the **Federal Register** a notice of availability of the Technical/Agency Draft Revised Recovery Plan for the Red-cockaded Woodpecker (*Picoides borealis*) for review and comment (65 FR 55269). On October 17, 2000, we published a notice to extend the public comment period for the Technical/Agency Draft Revised Recovery Plan for the Red-cockaded Woodpecker (*Picoides borealis*) (65 FR 61355). The public review and comment period ended on December 13, 2000. We subsequently have revised the ''Recovery Units'' section to discuss our approach to conducting jeopardy analyses as part of interagency consultation under section 7 of the Act.

Public Comments Solicited

We solicit written comments on the ''Recovery Unit'' section of the recovery plan as discussed above. We will consider all comments regarding recovery units received by the date specified in the **DATES** section, prior to approval of the plan.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold their home address, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous

comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Author

The primary author of this notice is Ralph Costa (*see* **ADDRESSES** section).

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533 (f).

Dated: October 22, 2002.

J. Mitch King,

Acting Regional Director, Fish and Wildlife Service.

[FR Doc. 02–29565 Filed 11–20–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–050–1020–PG: GP03–0030]

Notice of Public Meeting, John Day/Snake Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, 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) John Day Snake Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting will be held December 4, 2002 at the Oxford Inn Suites in Pendleton, OR beginning at 8 a.m. The public comment period will begin at approximately 1 p.m. and the meeting will adjourn at approximately 3 p.m.

SUPPLEMENTARY INFORMATION: The 15-member Council 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 North East Oregon.

Meeting Topics

The National Resource Advisory Council Conference/National Accomplishment Report
BLM National Mountain Biking Strategy
Blue Mountain Demo Area-Plan Review
Interior Columbia Basin Environmental Management Plan
Forest/BLM Plan Revisions
Hells Canyon/Wallowa Whitman National Forest Comprehensive Plan
Noxious Weeds-Forest Service Environmental Impact Statement and Bureau of Land
Management Vegetation Management
Rehab/Restoration Plans—2002 Fire Season
Sage Grouse Team Charter
Native Plant Plan

Meeting Procedures

All meetings are open to the public. The public may present written comments to the Council. Each formal Council 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 as sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM as provided below

FOR FURTHER INFORMATION CONTACT: Virginia Gibbons at (541) 416–6700, Prineville Bureau of Land Management, 3050 NE Third Street, Prineville, OR, 97754.

Dated: November 13, 2002.

A. Barron Bail,

District Manager, Prineville District, Oregon, Bureau of Land Management.

[FR Doc. 02–29525 Filed 11–20–02; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–926–03–1420–BJ]

Montana: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plat of Survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of the survey of the lands described below in the BLM Montana State Office, Billings, Montana, (30) days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: John K. Bunce II, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, P.O. 36800, Billings, Montana 59107–6800, telephone (406) 896–5364 or (406) 896–5009.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Bureau of Indian Affairs (BIA), and was necessary to determine ownership of accreted land and to also identify lands which have been lost to the river by erosion. The lands we surveyed are:

Principal Meridian, Montana

T. 26 N., R. 44 E.

The plat, representing the dependent resurvey of portions of the west boundary, subdivisional lines, the adjusted original meanders of the former left bank of the Missouri River, downstream through section 18 and the subdivision of section 18, and the survey of the meanders of the present left bank of the Missouri River, downstream through section 18, and certain division of accretion lines in section 18, Township 26 North, Range 44 East, Principal Meridian, Montana, was accepted November 1, 2002.

We will place a copy of the plat we described in the open files. It will be available to the public as a matter of information.

If BLM receives a protest against this survey, as shown on this plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file this plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: November 13, 2002.

Thomas M. Deiling,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 02–29524 Filed 11–20–02; 8:45 am]

BILLING CODE 4310–DN–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–467]

Certain Canary Yellow Self-Stick Repositionable Note Products; Notice of Commission Determination Not to Review an Initial Determination Terminating the Investigation as to Print-Inform GMBH & Co. on the Basis of a Settlement Agreement, and Terminating the Investigation in its Entirety

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ's'') initial determination (''ID'') terminating the above-captioned

investigation as to respondent Print-Inform GmbH & Co. (''Print-Inform'') on the basis of a settlement agreement. Inasmuch as Print-Inform is the last remaining respondent, its termination terminates the investigation in its entirety.

FOR FURTHER INFORMATION CONTACT: Michael Diehl, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3095. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 7, 2002, based on a complaint filed by Minnesota Mining and Manufacturing Company (now known as 3M Company) of St. Paul, Minnesota (''3M''). The complaint named Janel, S.A. de C.V. of the Distrito Federal, Mexico (''Janel'') and Print-Inform of Kaltenkirchen, Germany as respondents. The complaint alleged that the respondents violated section 337 of the Tariff Act of 1930 by importing into the United States, selling for importation, and/or selling within the United States after importation certain canary yellow self-stick repositionable note products that infringe U.S. Trademark Registration No. 2,390,667. On August 27, 2002, the Commission determined not to review an ID terminating the investigation as to Janel based on a settlement agreement. On or before September 4, 2002, 3M entered into a settlement agreement with Print-Inform as well. On September 25, 2002, 3M filed a motion to terminate the investigation as to Print-Inform. The Commission investigative attorney supported the motion. On October 18, 2002, the ALJ issued an ID (Order No. 12) granting the motion to termination the investigation as to Print-Inform. The ID also terminated the investigation in its entirety. No petitions for review of the ID were filed. The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in § 210.42 of the Commission's rules of practice and procedure (19 CFR 210.42). Copies of the public version of the ID, and all other nonconfidential documents filed in connection with this investigation, are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000.

By order of the Commission.

Issued: November 15, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–29569 Filed 11–20–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–470]

Certain Semiconductor Memory Devices and Products Containing Same; Notice of Commission Decision Not To Review an Initial Determination Terminating the Investigation on the Basis of a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ's'') initial determination (''ID'') terminating the above-captioned investigation in its entirety on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Clara Kuehn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3012. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: On May 9, 2002, the Commission instituted this investigation based on a complaint filed by Mosel Vitelic Inc. of Hsinchu, Taiwan and Mosel Vitelic Corp. of San Jose, CA (collectively,'complainants'') against Hitachi, Ltd. of Tokyo, Japan; Hitachi Semiconductor (America) Inc. of San Jose, CA; Elpida Memory, Inc. of Tokyo, Japan; and Elpida Memory (USA) Inc. of Santa Clara, CA (collectively, ''respondents''). The complaint alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, or the sale after importation of certain semiconductor memory devices or products containing same by reason of infringement of certain claims of U.S. Letters Patent 5,452,261; 5,412,257; and 5,917,214. 67 FR 31369 (2002).

On September 10, 2002, complainants and respondents filed a joint motion to terminate the investigation based on a settlement agreement and to amend the ALJ's protective order. On September 20, 2002, the Commission investigative attorney filed a response supporting the joint motion. On October 18, 2002, the ALJ issued an ID (Order No. 6) granting the joint motion to terminate. No petitions for review of the ID were filed.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in § 210.42 of the Commission's rules of practice and procedure (19 CFR 210.42).

By order of the Commission.

Issued: November 15, 2002.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–29568 Filed 11–20–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

National Instant Criminal Background Check System Section

Agency Information Collection Activities: Proposed Collection, Comments Requested

AGENCY: 60 day notice of information collection under review: extension of a currently approved collection; Federal Firearms Licensee (FFL) enrollment e-check enrollment form FFL officer employee acknowledge of responsibilities under the National Instant Criminal Background Check System (NICS) form.

The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), National Instant Criminal Background

Check System (NICS) Section has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until January 21, 2003. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Natalie Goff-Haggerty, Program Analyst, Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, NICS Section, Module A–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, or facsimile at (304) 625–2356.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's/component's estimate of the burden of the proposed collection of the information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the 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, *e.g.,* permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *Title of the form:* Federal Firearms Licensee (FFL) Enrollment/E-check Enrollment Form, FFL Officer/Employee Acknowledgment of Responsibilities under the National Instant Criminal Background Check System (NICS) Form.

(3) *Agency form number, if any, and the applicable component of the department sponsoring the collection:*

Form number: 1110–0026.

Sponsor: Criminal Justice Information (CJIS) Services Division of Federal Bureau of Investigation (FBI), Department of Justice (DOJ).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Any Federal Firearms Licensee (FFL) or State Point of Contact (POC) requesting access to conduct NICS Checks telephonically or by the Internet through the NICS E-Check.

Brief abstract: The Brady Handgun Violence Prevention Act of 1993, required the Attorney General to establish a national instant criminal background check system that any Federal Firearms Licensee may contact, by telephone or by other electronic means, such as the NICS E-Check, for information, to be supplied immediately, on whether receipt of a firearm to a prospective purchaser would violate state or federal law. Information pertaining to licensees who may contact the NICS is being collected to manage and control access to the NICS and to the NICS E-Check, to ensure appropriate resources are available to support the NICS, and also to ensure the privacy and security of NICS information.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:

It is estimated that enrollment occurs at approximately 500 per month for a total of 6,000 per year.

The average response time for reading the directions for the Federal Firearms Licensee Enrollment/E-Check Enrollment Form is estimated to be two minutes; time to complete the form is estimated to be three minutes; and the time it takes to assemble, mail, or fax the form to the FBI is estimated to be three minutes, for a total of eight minutes. It is estimated that enrollment occurs at approximately 500 per month for a total of 6,000 per year.

The average hour burden for this specific form is 6,000 × 8 minutes/60 = 800 hours.

The FFL Officer/Employee Acknowledgment of Responsibilities Form takes approximately three minutes to read the responsibilities and two minutes to complete the form, for a total of five minutes. The average hour burden for this specific form is 6,000 × 5 minutes/60 = 500 hours.

The accompanying letter mailed with the packet takes an additional two minutes to read which would be 6,000 × 2 minutes/60 = 200 hours.

The entire process of reading the letter and completing both forms would take 15 minutes per respondent. The average hour burden for completing both forms and reading the accompanying letter would be 6,000 × 15/60 = 1,500 hours.

(6) An estimate of the total public burden (in hours) associated with the collection:

The entire process of reading the letter and completing both forms would take 15 minutes per respondent. The average hour burden for completing both forms and reading the accompanying letter would be 6,000 × 15/60 = 1,500 hours.

If additional information is required, contact: Mr. Robert B. Briggs, Department Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: November 18, 2002.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 02–29584 Filed 11–20–02; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: 60-Day notice of Information collection under review; notice to student or exchange visitor; form I–515

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until January 21, 2003.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of currently approved collection.

(2) *Title of the Form/Collection:* Notice to Student or Exchange Visitor.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–515. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form will be used to notify students or exchange visitors admitted to the United States as nonimmigrants that they have been admitted without required forms and that they have 30 days to present the required forms and themselves to the appropriate office for correct processing.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 3,000 responses at 5 minutes (.083 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 249 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: November 15, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–29519 Filed 11–20–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 60-Day notice of information collection under review; aircraft/vessel report; form I–92.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until January 21, 2003.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection: Extension of a currently approved collection.*

(2) *Title of the Form/Collection:* Aircraft/Vessel Report.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–92. Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. This form is part of the manifest requirements of sections 231 and 251 of the I & N Act and is used by the INS and other agencies for data collection and statistical analysis.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 720,000 responses at 11 minutes (.183) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 129,600 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: November 15, 2002.

Richard A. Sloan,

Director, Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service,

[FR Doc. 02–29520 Filed 11–20–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: 60-Day notice of information collection under review; passenger list, crew list; form I–418.

The Department of Justice, Immigration and Naturalization Service has submitted the following information

collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until January 31, 2003.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will be practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other form of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Passenger List, Crew List.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–418. Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form is prescribed by the Attorney General for the INS for use by masters, owners or agents of agent of vessels in complying with sections 231 and 251 of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 95,000 respondents at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 95,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s0 contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: November 15, 2002.

Richard A. Sloan,

Director, Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service

[FR Doc. 02–29521 Filed 11–20–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Parole Commission

Record of Vote of Meeting Closure (Public Law 94–409) (5 U.S.C. Sec. 552b)

I, Edward F. Reilly, Jr., Chairman of the United States Parole Commission, was present at a meeting of said Commission which started at approximately 2:15 p.m. on Thursday, November 14, 2002, at the U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide four petitions for reconsideration pursuant to 28 CFR Section 2.27. Three Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Edward F. Reilly, Jr., Michael J. Gaines, and John R. Simpson.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: November 15, 2002.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 02–29731 Filed 11–19–02; 9:33 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of October 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–42,039; Wisconsin Pattern Co., Racine, WI

TA–W–42,033; Bridgeport Machines, Inc., Bridgeport, CT, A; Delran, NJ, B; Webster, MA, C; Elgin, IL, D; Detroit, MI

TA–W–41,381; Red Wing Shoe Co., Inc., Potosi Plant, Potosi, MO

TA–W–42,237; Penn American Coal, a Wholly Owned Subsidiary of Mill Creek Mining, Inc., a Wholly Owned Subsidiary of Coal Resources, Inc., Black Lick, PA

TA–W–42,000; Daicolor-Pope, Inc., Paterson, NJ
TA–W–41,589; Shamrock Conduit Products, Inc., Barnesville, OH

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–42,143; Dana Corp., Perfect Circle Div., Hastings, NE
TA–W–41,370; The Boeing Co., Battlefield Command and Control, Space Systems, El Paso, TX

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–42,234; Joy Mining Machinery, a Div. of Joy Global, Inc., Co., Mt Vernon, IL
TA–W–42,242; Super Shrimp, Inc., Yuma, AZ
TA–W–42,097; Jones Apparel Group USA, Inc., El Paso, TX
TA–W–41,396; Bell Sponging Co., Inc., Allentown, PA

The investigation revealed that criteria (1) has not been met. A Significant number or proportion of the workers did not become totally or partially separated from employment as required for certification.

TA–W–41,943; ADC Telecommunications, Inc., Eden Prairie, MN

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–42,199; Harting Manufacturing, Inc., Elgin, IL: September 19, 2001
TA–W–42,125; River Oaks Furniture, Inc., Tupelo, MS: August 30, 2001
TA–W–42,058; Cross Wire Cloth and Manufacturing Co., a Subsidiary of MDN, Inc, Bellmawr, NJ: August 23, 2001
TA–W–42,056; Kadant Black Clawson, a Wholly Owned Subsidiary of Kadant, Inc., Mason, OH: July 30, 2001
TA–W–42,035; Piece Dye Acquisition Corp., d/b/a Piece Dye Works, Edenton, NC: August 10, 2001
TA–W–41,981; Carolina Mills, Inc., Plant #21 and Plant #24, Gastonia, NC: July 19, 2001
TA–W–41,431; Sterling Fluid Systems (USA), Inc., Process Metals Foundry, White Pigeon, MI: April 1, 2001
TA–W–42,252; Leslie Fay Marketing, Inc., Trio Div., New York, NY: October 11, 2001
TA–W–42,223; Nash Garment Co., Inc., Nashville, NC: July 11, 2001
TA–W–42,313; Premier Machining Industries, LLC, Concord, NC: October 23, 2001
TA–W–42,179; Kirkwood Industries, Inc., Dayton Precision Div., Hebron, OH: September 9, 2001
TA–W–42,178; Microtek Medical, Inc., Columbus, MS: April 1, 2002
TA–W–42,146; Apex Automation, Elizabethtown, PA: August 28, 2001
TA–W–42,142; Tinplate Partners International, Inc., Gary, IN: August 24, 2001
TA–W–42,082; Nordic Gear, Inc., Newport, PA: August 28, 2001
TA–W–42,081; Nordic Gear, Inc., Millersburg, PA: August 28, 2001
TA–W–41,660; Amspec Chemical Corp., Gloucester, NJ: May 18, 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 month of October 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–05696; Pittsburgh Gear Co., a Subsidiary of Brad Foote Gear Works, Inc., Pittsburgh, PA
NAFTA–TAA–06077; The Boeing Co., Battlefield Command and Control/ Space Systems, El Paso, TX

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–06129; Bell Sponging Co., Inc., Allentown, PA
NAFTA–TAA–06520; Jones Apparel Group USA, Inc., El Paso, TX
NAFTA–TAA–07619; Empire Blue Cross Blue Shield, Syracuse, NY

The investigation revealed that criteria (1) has 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.

NAFTA–TAA–07245; Permit #60091M, King Salmon, AK
NAFTA–TAA–07039; Permit #68757A, Togiak, AK
NAFTA–TAA–07244; Permit #58575Q, King Salmon, AK
NAFTA–TAA–06450; ADC Telecommunication, Corporate Headquarters, Eden Prairie, MN

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–06560; Permit #61977V, Clarks Point, AK: September 5, 2001
NAFTA–TAA–06590; Permit #59590W, New Stuyahok, AK: September 5, 2001
NAFTA–TAA–06758; Permit #56087G, Ekwok, AK: September 5, 2001
NAFTA–TAA–06768; Permit #57814M, Iliamna, AK: September 5, 2001
NAFTA–TAA–06794; Permit #67507U, King Salmon, AK: September 5, 2001
NAFTA–TAA–06888; Permit #61249B, Naknek, AK: September 5, 2001

NAFTA–TAA–06890; Permit #56569N, Anchorage, AK: September 5, 2001
NAFTA–TAA–06931; Permit #57641L, New Stuyahok, AK: September 5, 2001
NAFTA–TAA–06953; Permit #62030E, Pilot Point, AK: September 5, 2001
NAFTA–TAA–07007; Permit #68074I, Togiak, AK: September 5, 2001
NAFTA–TAA–07308; Permit #57390J, Manokotak, AK: September 5, 2001
NAFTA–TAA–07429; Permit #58385W, Pilot Point, AK: September 5, 2001
NAFTA–TAA–07449; Permit #58296E, South Naknek, AK: September 5, 2001
NAFTA–TAA–07450; Permit #59803W, South Naknek, AK: September 5, 2001
NAFTA–TAA–07551; Nordic Gear, Inc., Millersburg, PA: August 28, 2001
NAFTA–TAA–07552; Nordic Gear, Inc., Newport, PA: August 28, 2001
NAFTA–TAA–07588; Nash Garment Co., Inc., Nashville, NC: July 11, 2001
NAFTA–TAA–06411; Carolina Mills, Inc., Plant #21 and Plant #24, Gastonia, NC: July 19, 2001
NAFTA–TAA–06480; Piece Dye Acquisition Corp., d/b/a Piece Dye Works, Edenton, NC: August 10, 2001
NAFTA–TAA–06947; 59469B, Newhalen, AK: September 5, 2001

I hereby certify that the aforementioned determinations were issued during the month of October 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: November 1, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–29626 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,317]

Boise Cascade, Jackson Sawmill, Jackson, AL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 1, 2002, in response to a worker petition dated October 15, 2002, filed by the Paper, Allied-Industrial, Chemical, and Energy Workers International Union, on behalf of workers at Boise Cascade, Jackson Sawmill, Jackson, 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 7th day of November, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–29642 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,321]

Boxboard Packaging Company, a Division of Welch Packaging Group, Worwalk, OH; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 1, 2002, in response to a worker petition dated September 30, 2002, filed by the Norwalk Printing Specialties and Paper Products Union, Local 731, on behalf of workers at Boxboard Packaging Company, a Division of Welch Packaging Group, Norwalk, Ohio.

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 4th day of November, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–29643 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 2, 2002.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 2, 2002.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed in Washington, DC, this 28th day of October, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

Appendix

PETITIONS INSTITUTED ON 10/28/2002

TA–W	Subject Firm (Petitioners)	Location	Date of Petition	Product(s)
42,277	Eaton Corporation (Wkrs)	Rochester Hills, MI	10/10/2002	Intake manifold tuning valves.
42,278	Intra, Inc. (Wkrs)	Spartanburg, SC	07/31/2002	Textile machines and equipment.
42,279	LaGrange Foundry (GMP)	LaGrange, MO	09/18/2002	Gray iron and ductile castings.
42,280	Covington Industries (Comp)	High Point, NC	10/08/2002	Home furnishing textiles.
42,281	Dorel Juvenile Group (Wkrs)	Cartersville, GA	10/09/2002	Metal cribs, toddler beds, step stools.
42,282	CT Gamble Acquisition (Wkrs)	Delanco, NJ	10/04/2002	Electrical resistors and components.
42,283	Facility Pro (Comp)	Dublin, OH	10/02/2002	Administrative services.
42,284	Custom Forest Products (Comp)	Grayling, MI	10/08/2002	Venetian wood blind slats.
42,285	General Electric Company (IUE)	Murfreesboro, TN	10/21/2002	Two speed washing machine motor.
42,286	Best Manufacturing Co. (Wkrs)	Fayette, AL	09/14/2002	Synthetic latex gloves.
42,287	Crystal Dyeing and Finish (Comp)	Hickory, NC	10/15/2002	Dyeing and finishing of apparel fabrics.
42,288	Warp Knit Mills, Inc. (Comp)	Lincolnton, NC	10/15/2002	Warp knitted fabrics for apparel product.
42,289	Interlake Material (Wkrs)	Pontiac, IL	02/10/2002	Industrial racks.
42,290	Glen Raven Inc. (Wkrs)	Burnsville, NC	09/30/2002	Textiles—woven fabric.
42,291	Playtex Apparel Inc. (Wrks)	Dover, DE	10/10/2002	Apparel.
42,292	MacNeill Worldwide (Wkrs)	Laconia, NH	10/12/2002	Plastic injection molding.
42,293	Rollway Bearing Corp. (UAW)	Liverpool, NY	09/25/2002	Cylindrical precision bearings.
42,294	Glucona America Inc. (Wkrs)	Janesville, WI	10/10/2002	Gluconic acid and glucono delta lactone.
42,295	Master Carrier, Inc. (Wkrs)	Mayport, PA	10/09/2002	Transporting.
42,296	Westwood Industries (Wkrs)	New York, NY	10/02/2002	Textile products for home.
42,297	Choctaw Electronics (Comp)	Choctaw, MS	10/11/2002	Automotive radio speakers.
42,298	Massillon Stainless, Inc. (Comp)	Massillon, OH	10/02/2002	Stainless steel cold rolls.
42,299	Alcoa Printing Plant (GCIU)	Gilbertsville, PA	09/26/2002	Plastic bags.
42,300	Lake Village Industries (Comp)	Lake Village, AR	10/10/2002	Pajamas, pants, flameouts, belts.
42,301	Tennecast/CDT (Comp)	Barberton, OH	10/21/2002	Aluminum castings and molds.
42,302	Trends Clothing Corp. (Wkrs)	Miami, FL	10/09/2002	Junior sportswear.
42,303	Abel Conn (Wkrs)	Cokato, MN	10/08/2002	Back panels and custom interconnects.
42,304	Virkler Company (The) (Comp)	Charlotte, NC	10/11/2002	Specialty chemicals for textiles.
42,305	Unison Industries (Comp)	Ft. Worth, TX	10/08/2002	Electrical wire harnesses.
42,306	Atlas Copco (UE)	Holyoke, MA	10/09/2002	Air compressors and generators.
42,307	Cadence Design Systems (Wkrs)	Irvine, CA	10/11/2002	Analog simulators.
42,308	Shipping Systems, Inc. (Wkrs)	Crossett, AR	10/02/2002	Paper and polypropylene dunnage bags.
42,309	Advanced Glassfiber Yarns (Comp)	Huntingdon, PA	08/01/2002	e-glass yarns, fine yarns, D fiber.
42,310	Inteplast Group Ltd. (Wkrs)	Lolita, TX	10/07/2002	Plastic trash bags, garment bags.
42,311	New England Iron, LLC (Comp)	Springfield, MA	10/18/2002	Sand shell molded gray iron.
42,312	Analog Devices (Wkrs)	Norwood, MA	10/18/2002	Marketing service.
42,313	Premier Machining Indust. (Co.)	Concord, NC	10/23/2002	Fabricated machine parts.

[FR Doc. 02–29627 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been

received, the Director of the Division of Trade Adjustment Assistance (DTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of Section 2500 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of DTAA at the U.S. Department of Labor (DOL) in Washington, DC provided such request if filed in writing with the Director of DTAA not later than December 2, 2002.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of DTAA at the address shown below not later than December 2, 2002.

Petitions filed with the Governors are available for inspection at the Office of the Director, DTAA, ETA, DOL, Room C–5311, 200 Constitution Avenue, NW. Washington, DC 20210.

Signed at Washington, DC this 28th day of October, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

Subject firm	Location	Date received at Governor's Office	Petition No.	Articles produced
Fred B. Moe Logging (Co.)	Centralia, WA	09/16/2002	NAFTA–7,547	Logging.
ADC Telecommunications (Wkrs)	Vadnais Heights, MN	09/10/2002	NAFTA–7,548	Pump lasers, broad area lasers.
Exide Technologies (Wkrs)	Columbus, GA	09/10/2002	NAFTA–7,549	Automotive and industrial batteries.
Volex, Inc. (Comp)	Clinton, AR	09/10/2002	NAFTA–7,550	Rubber electrical power cords.
Nordic Gear (Co.)	Newport, PA	09/11/2002	NAFTA–7,551	Sew fleece products.
Nordic Gear (Co.)	Millersburg, PA	09/11/2002	NAFTA–7,552	Sew fleece products.
Foothills (Co.)	Albany, KY	09/10/2002	NAFTA–7,553	Apparel.
VF Imagewear (Co.)	Sparta, TN	09/10/2002	NAFTA–7,554	Work wear coveralls and pants.
Federal Mogul (Co.)	Sevierville, TN	09/10/2002	NAFTA–7,555	Lighting components.
Waukesha Electric Systems (Co.)	Milpitas, CA	09/09/2002	NAFTA–7,556	Large power transformers.
MEI—Mars, Inc. (Co.)	West Chester, PA	09/12/2002	NAFTA–7,557	Validators and coin acceptors.
Traction Technologies Group (Co.)	Jonesboro, AR	09/11/2002	NAFTA–7,558	Axle components.
Makita Corporation of America (Co.)	Buford, GA	09/12/2002	NAFTA–7,559	Battery and electric power tools.
Toyo Tanso PA Graphite, Inc. (Comp).	Brookville, PA	09/13/2002	NAFTA–7,560	Isomolded graphite.
Comair Rotron (Co.)	San Diego, CA	09/11/2002	NAFTA–7,561	Fans and blowers—cooling systems.
Tritex Sportsware (Co.)	Altoona, PA	09/16/2002	NAFTA–7,562	Men's, women's and children's outerwear.
dj Orthopedics, LLC (Co.)	Vista, CA	09/16/2002	NAFTA–7,563	Rigid bracing products.
Georgia Pacific (Wkrs)	Bowden, NC	09/18/2002	NAFTA–7,564	Lumber.
Baker Electrical Products (Co.)	Memphis, MI	09/17/2002	NAFTA–7,565	Coil windings.
Hy Lift (UAW)	Muskegon, MI	09/17/2002	NAFTA–7,566	Valve lifters.
Holloway Sportwear, Inc. (Wkrs)	Many, LA	06/16/2002	NAFTA–7,567	Suits, pants, pullovers, jackets.
Holloway Sportwear, Inc. (Wkrs)	Olla, LA	06/16/2002	NAFTA–7,567	Suits, pants, pullovers, jackets.
Molded Container (Wkrs)	Portland, OR	08/12/2002	NAFTA–7,568	Packaging for food industry.
Emerson Power Transmission (Wkrs).	Liverpool, NY	09/18/2002	NAFTA–7,569	Bearings.
Jackson Industries (Co.)	Maquoketa, IA	09/18/2002	NAFTA–7,570	Tooling.
International Comfort (IBB)	Lewisburg, TN	09/23/2002	NAFTA–7,571	Heating ventilation & air conditioning.
Percision Threading (UAW)	Cheboygan, MI	09/24/2002	NAFTA–7,572	Taps, thread milling cutters.
Pass and Seymour (Co.)	Whitsett, NC	09/24/2002	NAFTA–7,573	Electrical switch.
Radio Frequency Systems (Wrks)	Corvallis, OR	09/19/2002	NAFTA–7,574	Multi Couplers.
Celestica Corp (Comp)	Foothill Ranch, CA	09/24/2002	NAFTA–7,575	Electrical Systems.
Ametek, Inc (IUE)	Wilmington, MA	09/24/2002	NAFTA–7,576	Aircraft/Aerospace Cables.
Decatur Mold Tool and Engineering (Wrks).	Sanford, NC	09/26/2002	NAFTA–7,577	Design Molds and Tools.
Eviro Systems Furniture, Inc (Comp)	Grand Rapids, MI	09/25/2002	NAFTA–7,578	Panels, Overhead File Cabinets.
Marconi Communications (Wrks)	Lorain, OH	09/30/2002	NAFTA–7,579	Power and Power Distribution.
JTM Group, Inc. (Wrks)	Jamestown, NY	09/11/2002	NAFTA–7,580	Plastic Injection Molds.
Inabata America Corp (Wrks)	El Paso, TX	09/27/2002	NAFTA–7,581	Computer Ink Cartridge Assembly.
BBA Nonwovens Washougal, Inc (AWPPW).	Washougal, WA	09/27/2002	NAFTA–7,582	Nonwoven Rolled Goods.
Doe Run Resources Corp. (The) (Comp).	Viburnum, MO	10/02/2002	NAFTA–7,583	Lead Mining, Concentrating, Smelting.
Classic Clay Concepts (Comp)	Lake Oswego, OR	09/25/2002	NAFTA–7,584	Terra Cotta, Earthenware Planters.
J and A Industrial Sheetmetal (Comp).	Bend, OR	09/25/2002	NAFTA–7,585	Metal Parts.
Hershey Chocolate and Confectionery (Comp).	Wheatridge, CO	09/18/2002	NAFTA–7,586	Chocolate.
Groupe Carbone Lorraine (UAW)	Wooster, OH	09/30/2002	NAFTA–7,587	Pressure Vessels, Heat Exchangers.
Nash Garment Co (UNITE)	Nashville, NC	07/16/2002	NAFTA–7,588	Children's Dresses.
Georgia Pacific Corp. (IAm)	Ft. Bragg, CA	09/27/2002	NAFTA–7,589	Logs.

APPENDIX—Continued

Subject firm	Location	Date received at Governor's Office	Petition No.	Articles produced
Jabil Circuit, Inc. (Wkrs)	Meridian, ID	09/24/2002	NAFTA–7,590	Printed Circuit Assemblies.
Barth and Dreyfuss of California (Wrks).	Burbank, CA	10/01/2002	NAFTA–7,591	Home Furnishing.
J-Star Industries, Inc. (Comp)	Ft. Atkinson, WI	10/07/2002	NAFTA–7,592	Dairy Farm Equipment.
Deluxe Craft Photo Albums (Wrks)	Chicago, IL	10/01/2002	NAFTA–7,593	Photo Albums.
Juno, Inc. (Wrks)	Blytheville, AR	09/16/2002	NAFTA–7,594	Plastic Tool Parts.
Microelectronic Modules Corp (Wrks)	New Berlin, WI	10/03/2002	NAFTA–7,595	Computer Chips.
La Grange Foundry, Inc. (Wrks)	La Grange, MO	10/03/2002	NAFTA–7,596	Castings.
Spicer Axle Division (UAW)	Syracuse, IN	10/03/2002	NAFTA–7,597	Cases and Carriers (Axle Components).
General Mills (Comp)	Hillsdale, MI	10/02/2002	NAFTA–7,598	Bake Goods.
Waltec Forgings, Inc. (Comp)	Port Huron, MI	10/07/2002	NAFTA–7,599	Non-Ferrous Forgings.
Autoline Industries, Inc. (Comp)	Oakbrook, IL	10/07/2002	NAFTA–7,600	Water Pumps, Master Brake Cylinders.
Panavision (Wrks)	Woodland Hills, CA	09/23/2002	NAFTA–7,601	Motion Pictures, Cameras, Lenses.
Anderson Packaging, Inc. (Comp)	Rockford, IL	10/07/2002	NAFTA–7,602	Dentifrice in Pastic Dispensing Units.
Midwest Electric Products (Comp)	Mankato, MN	08/19/2002	NAFTA–7,603	Electrical Equipment.
Nortel Networks (Wrks)	Research Triangle Park, NC.	09/23/2002	NAFTA–7,604	Optical Long Haul Backbone Networs.
Consolidated Freight Ways (Wrks)	El Paso, YX	10/07/2002	NAFTA–7,605	Transports Freight.
MJ Soffe (Wrks)	Wallace, NC	10/09/2002	NAFTA–7,606	T-Shirts.
RBX Industries, Inc. (Comp)	Colt, AR	10/04/2002	NAFTA–7,607	Closed Cell Foam Rubber.
Arkansas Metal Castings, Inc. (Comp).	Fort Smith, AR	10/08/2002	NAFTA–7,608	Gray and Ductile Iron Castings.
General Electric Transportation Systems (Comp).	Warrensburg, MO	10/07/2002	NAFTA–7,609	Printed Circuit Boards.
Mountain Fir Chip Co (Wrks)	The Dalles, OR	10/08/2002	NAFTA–7,610	Wood Chips.
Unison Industries (Comp)	Fort Worth, TX	10/14/2002	NAFTA–7,611	Electrical Wire Harnesses.
SMTC Manufacturing Corp. (Co.)	Austin, TX	08/22/2002	NAFTA–7,612	Computer Printed Circuit Assemblies.
Legato Systems, Inc. (Wrks)	Orem, UT	10/15/2002	NAFTA–7,613	Customer Support Functions.
Interlake Material Handling (Wrks)	Pontiac, MI	10/09/2002	NAFTA–7,614	Industrial Rack and Beams.
Sermatech-Mal Tool (Wrks)	Manchester, CT	10/10/2002	NAFTA–7,615	Aircraft Engine Components.
Oneida Limited Silversmiths (Wrks)	Sherrill, NY	10/11/2002	NAFTA–7,616	Silverware.
Tecmotiv Corp. (Wrks)	Tonawanda, NY	10/18/2002	NAFTA–7,617	Tank and Trucks Replacement Parts.
Alcatel USA, Inc. (Wrks)	Plano, TX	10/18/2002	NAFTA–7,618	Litespan 2000 Access Products.
Empire Blue Cross Blue Shield (Wrks).	Syracuse, NY	09/27/2002	NAFTA–7,619	Technical Help Deck—Insurance.
Trailmobile LLC (PACE)	Charleston, IL	09/23/2002	NAFTA–7,620	Semi-Trailers.
Intertape Polymer Group (Co.)	Menasha, WI	10/21/2002	NAFTA–7,621	Tape.
Eaton Corp (Wrks)	Rochester Hills, MI	10/14/2002	NAFTA–7,622	Intake Manifolds.
ATK North America (Wrks)	Falmouth, KY	10/18/2002	NAFTA–7,623	Automotive Engines.
Pohlman Foundry Co., Inc (IAMAW)	Buffalo, NY	10/15/2002	NAFTA–7,624	Poured Iron Castings.
Pollak (Co.)	Boston, MA	10/22/2002	NAFTA–7,625	Actuators.

[FR Doc. 02–29624 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,119]

J-Star AG Division, JSI Industries, Inc., Fort Atkinson, WI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 16, 2002, in response to a petition filed on behalf of workers at J-Star AG Division, JSI Industries, Inc, Fort Atkinson, Wisconsin.

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 12th day of November, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–29637 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,047]

Marathon Ashland Pipe Line, LLC, Bridgeport, IL; Notice of Negative Determination of Reconsideration on Remand

The United States Court of International Trade (USCIT) remanded for further investigation and consideration of the Trade Adjustment Assistance (TAA) petition for *Former Employees of Marathon Ashland Pipe Line LLC* v. *Elaine Chao, U.S. Secretary of Labor,* No. 00–04–00171.

The Department's initial denial for the workers transporting crude oil and petroleum products at Marathon Ashland Pipe Line, LLC, Bridgeport, Illinois, issued on December 2, 1999, and published in the **Federal Register** on December 28, 1999 (64 FR 72691), was based on the finding that the group eligibility requirements of section 222 of the Trade Act of 1974, as amended, were not met.

The petitioners request for reconsideration resulted in a negative determination regarding the application which was issued on February 11, 2000, and was published in the **Federal Register** on February 22, 2000 (64 FR 8743). The Department's findings affirmed that the workers were providing a service and were not producing an article.

On remand, in order to determine if the worker group supported crude oil production of the parent company, the Department contacted officials of Marathon Ashland Pipe Line LLC, to obtain additional information regarding the transportation of articles produced by the parent company, Marathon Oil Company, Inc. The Department found that in 1997, 1998 and in January through March of 1999, Marathon Ashland Pipe Line Company did not transport via pipeline any articles produced by the parent company, Marathon Oil Company, Inc.

The Department further found that in 1997, the parent company purchased crude oil at the lease (Illinois Basin) that was transported by Marathon Pipe Line Company. In 1998, Marathon Ashland Petroleum LLC was formed and it purchased from the lease crude oil which it transported via the pipe line. In 1999, Marathon Ashland Petroleum LLC did not purchase from the lease.

On July 16, 2002, the court remanded to the Department of Labor, USCIT Case No. 00–04–00171, that they investigate the duties and nature of the work performed by the gaugers of Marathon Ashland Pipe Line, Bridgeport, Illinois and provide a reasoned analysis as to whether such duties qualify as ''producing'' an article within the provisions of 19 U.S.C., section 2272(a).

After the investigation, the Department of Labor found that Marathon Ashland Pipe Line LLC is a common carrier pipeline company. The company provides a service by transporting crude oil and petroleum products. The subject workers were primarily responsible for activities related to the transportation of crude oil produced in Southern Illinois/Indiana via Marathon Ashland Pipe Line LLC pipelines. The gaugers, a part of the group for Marathon Ashland Pipe Line LLC, were not engaged in activities related to the production of crude oil. They were responsible for determining the quality and quantity of crude oil bought by the purchasing company from third party leases. The gaugers were responsible for ensuring quality control by collecting representative samples from crude oil tanks and certifying that the crude oil was acceptable for purchase. Once the crude oil quality was certified, the gauger would verify the quantity of the product from the tank and allow delivery into the Marathon Ashland Pipe Line facility either by truck to the pipeline or directly into the pipeline. After the crude oil was placed in the pipeline, it was then delivered to the customer's specified destination or Marathon Ashland Petroleum's refinery in Robinson, Illinois. Thus, based on the functions performed by the gaugers they did not ''produce'' an article.

The court also ordered that if the workers do not ''produce'' an article, the Department of Labor shall determine and explain whether a ''causal nexus'' exists between the gaugers' responsibilities and the production of an ''article''.

Since the gaugers, who are employed by the pipeline company were merely responsible for certifying the quality and quantity of crude oil being shipped to customers, the gaugers were not engaged in activities related to the exploration or production of crude oil. The gaugers worked from crude oil already in tanks. Their functions were after the stage of the production of crude oil. The gaugers' functions were related to ensuring that crude oil purchasers received the quality and quantity of crude oil they were purchasing. Once the gaugers performed these functions, the crude oil was shipped via truck to the pipeline or directly to the pipeline to the customer or Marathon Ashland Petroleum's refinery located in Robinson, Illinois. The Robinson, Illinois refinery was not under an existing Trade Adjustment Assistance certification during the relevant period.

The court further ordered that the Department of Labor investigate the reasons behind the sale of Marathon Oil's assets and the plaintiffs' claim that a decision by Marathon Oil to import crude oil caused their separation from Marathon Ashland.

Of note, the parent of Marathon Ashland Pipe line, LLC is Marathon Ashland Petroleum LLC which is a joint venture owned by Marathon Oil Corporation (formerly Marathon Oil Company) and Ashland, Inc. Marathon Oil owns 62 percent of Marathon Ashland Petroleum, LLC and Ashland, Inc. owns 38 percent of Marathon Ashland Petroleum, LLC.

The Department found that the sale of assets in question were not assets sold by Marathon Oil, but rather a sale of Marathon Ashland Petroleum LLC. In 1999 Marathon's Ashland Petroleum's LLC sold Scurlock Permian LLC, a crude oil gathering and transportation business in an area from the Rocky Mountains to the Gulf of Mexico, part of its Illinois Basin assets, to Plains All American Pipeline, L.P. These assets were part of an overall sale of assets by Marathon Ashland Petroleum LLC because they were not of strategic value to the company. Marathon Ashland Pipeline LLC still transports Illinois Basin crude oil (gauged and trucked by various companies from the wellhead to Marathon Ashland Pipeline LLC facilities) to locations determined by the crude oil purchases. The company indicated that the employees at Marathon Ashland Pipe Line LLC, Bridgeport, Illinois were terminated as a result of an asset sale in May 1999, not the decision by Marathon to import crude oil. In any event, since the workers were engaged in a service, they can not be certified under the Trade Act of 1974, as amended, since they were not in direct support of a TAA certified facility during the relevant period.

Conclusion

After reconsideration on remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Marathon Ashland Pipe Line, LLC, Bridgeport, Illinois.

Signed in Washington, DC, this 17th day of October, 2002.

Edward A. Tomchick

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–29625 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has

instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 2, 2002.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 2, 2002.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 30th day of September, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 09/30/2002]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
42,178	Microtek Medical, Inc. (Comp)	Columbus, MS	09/10/2002	Microscope drapes, camera drapes.
42,179	Kirkwood Industries (Comp)	Hebron, OH	09/09/2002	Commutators, electromechanical component.
42,180	Hy Lift (UAW)	Muskegon, MI	09/17/2002	Valve Lifters.
42,181	Georgia Pacific (Wrks)	Bowden, NC	09/11/2002	Hardwood lumber.
42,182	American Tramway's (Wrks)	Watertown, NY	09/10/2002	Aerial tramways and chairlifts.
42,183	Inabata (Wrks)	El Paso, TX	09/17/2002	Assembling.
42,184	Graphic Sportswear (Wrks)	Austin, TX	09/10/2002	T-shirts, polo shirts, and sweatshirts.
42,185	Juno (Wrks)	Blytheville, AR	09/11/2002	Plastic tool parts.
42,186	AMF Reece, Inc. (Comp)	Mechanicsville, VA	09/10/2002	Sewing machines and parts.
42,187	Faith Apparel, Inc. (Comp)	Richlands, VA	09/09/2002	Ladies sleepwear and lounge wear.
42,188	Laird Technologies (Wrks)	Del Water Gap, PA	09/12/2002	Copper metal stampings, tool dye work.
42,189	Baker Electrical Products (Comp)	Memphis, MI	09/12/2002	Coil windings.
42,190	Pechiney Rolled Products (Comp)	Ravenswood, WV	09/11/2002	Aluminum flat rolled sheet plates.
42,191	Tytex, Inc USA (Wrks)	Woonsocket, RI	09/11/2002	Hip protector plants, cotton briefs.
42,192	Waukesha Electric Systems (Comp)	Milpitas, CA	08/08/2002	Large power transformers.
42,193	Vulcan Chemicals (Comp)	Wichita, KS	09/19/2002	Chloroform.
42,194	Jean Michael's, Inc. (UNITE)	Willingboro, NJ	09/20/2002	Women's skirts.
42,195	3M EdUSA (Wrks)	El Paso, TX	06/11/2002	Bandages, first aid kits, dressings.
42,196	Hy-Tec Manufacturing (Wrks)	Ada, OK	09/13/2002	Alternator and starter parts.
42,197	Georgia Pacific Corp. (PACE)	Baileyville, ME	09/16/2002	Wood construction panels.
42,198	Tritex Sportswear, Inc. (Comp)	Altoona, PA	09/09/2002	Men's, women's and children's outerwear.
42,199	Harting Manufacturing (Comp)	Elgin, IL	09/19/2002	Cable and related components assemblies.
42,200	Multi Tool, Inc. (Wrks)	Saegertown, PA	08/27/2002	Plastic injection molds.
42,201	International Rectifier (Wrks)	\Temecula, CA	09/24/2002	Wafer chips for semiconductors.
42,202	Empire Blue Cross (Wrks)	Syracuse, NY	09/09/2002	Technical assistance service.
42,203	Motorola (Wrks)	Austin, TX	09/16/2002	Semiconductor packaging.
42,204	G.S. of West Virginia (Comp)	Ravenswood, WV	09/13/2002	Automotive wire harness.
42,205	Sutherland Sheet Metal (Wrks)	Woonsocket, RI	09/11/2002	Custom fabrication and welding.
42,206	Hoffco/Comet (Comp)	Rushville, IN	09/16/2002	Transmission assembly.
42,207	Xerox Corp (UNITE)	Canandaigua, NY	09/17/2002	Printhead and ink tank.
42,208	Engelhard Corp (Wrks)	Erie, PA	09/18/2002	Nickel and maleic products.
42,209	Duro Industries, Inc. (Comp)	Fall River, MA	09/16/2002	Apparel dying, finishing, printing.

[FR Doc. 02–29623 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,291]

Playtex Apparel, Inc., Dover, DE; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 28, 2002 in response to a worker petition, which was filed on behalf of workers at Playtex Apparel, Inc, Dover, Delaware.

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 12th day of November, 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–29641 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,098]

Pliant Solutions, Fort Edward, NY; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 9, 2002, in response to a worker petition which was filed by PACE International Union, AFL–CIO, Local #01–003 on behalf of workers at Pliant Solutions, Fort Edward, New York.

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 30th day of October, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–29636 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,186]

Swanson Erie Corporation, Assembly Systems, Erie, PA; Notice of Negative Determination Regarding Application for Reconsideration

By application of July 22, 2002, the Automobile, Aerospace & Agricultural Implementation Workers of America, International Union, United (UAW), Local 618 requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on June 25, 2002, and published in the **Federal Register** on July 9, 2002 (67 FR 45550).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at Swanson Erie Corporation, Assembly Systems, Erie, Pennsylvania engaged in the production of assembly of machines, was denied because the ''contributed importantly'' group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. Increased imports did not contribute importantly to worker separations at the subject plant. The workers assembled various assembly machines (*i.e.* 35mm disposable cameras, bare skin cutting machines, AA-rebuilding machines and acuvan catheter machines).

The petitioner alleges that the company increased their imports of articles like or directly competitive with articles produced by the subject firm thus contributing importantly to the separations at the subject firm. The petitioner in order to depict increased imports, attached a parts list of the imported parts (by part number), including the total value of each of the parts imported during 2000, 2001, and January through February 12, 2002.

The company was contacted to verify the import data provided by the petitioner. The company responded by indicating the products imported were cams, a component part of the machinery assembled by the subject firm. The company further indicated that they produced this product in-house (in combination of purchasing cams from other domestic sources) to mid-1997. In mid-1997, the company ceased their production of cams and began relying solely on imported cams from a foreign source through the current period. The imports of cams by the company are not like or directly competitive with articles currently being produced by the subject firm during the relevant period.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed in Washington, DC, this 22nd day of October, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–29635 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,213]

John Boyle and Associates, LLC, DBA Synergetics, Easton, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 7, 2002 in response to a petition filed by a company official on September 16, 2002 on behalf of workers at John Boyle and Associates, LLC, dba Synergetics, Easton, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 13th day of November, 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–29640 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,335]

Trans World Connections, Ltd., Lynchburg, Virginia; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 1, 2002, in response to a petition filed by a company official on behalf of workers at Trans World Connections, Ltd., Lynchburg, Virginia.

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 13th day of November, 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–29644 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,172]

Volex, Inc. Power Cord Division Clinton, AR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 23, 2002, in response to a worker petition filed on the same date by a company official on behalf of workers at Volex, Inc., Power Cord Division, Clinton, Arkansas.

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 7th day of November, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–29638 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,207]

Xerox Corporation, (SOHO) Small Office/Home Office Division, Canandaigua, New York; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 30, 2002 in response to a petition filed on the same date by UNITE, Rochester Regional Joint Board, on behalf of workers at Xerox Corporation, Canandaigua, New York.

A negative determination applicable to the petitioning group of workers was issued on March 8, 2002 (TA–W–40,405). No new information or change in circumstances is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 4th day of November, 2001.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–29639 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—6534]

Altadis U.S.A. Inc. McAdoo, 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 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on September 9, 2002, in response to a petition filed by the International Brotherhood of Teamsters, Local 401, on behalf of workers at Altadis U.S.A. Inc., McAdoo, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 28th day of October, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–29629 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6830]

Permit # 56860I Manokotak, AK; 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. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, Permit #56860I, Manokotak, Alaska.

The workers stopped fishing in July 2000, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would service no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 31st day of October 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–29630 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6873]

Permit # 65045K Naknek, AK; 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. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, Permit #64872Z, Dillingham, Alaska.

The workers stopped fishing in July 2001, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would service no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 31st day of October 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–29631 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6892]

Permit #58212Z, Naknek, Alaska; 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. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, Permit #58212Z, Naknek, Alaska.

The workers stopped fishing in September 1999, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would service no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 31st day of October 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–29632 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7101]

Permit #57764U Dillingham, AK; 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. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, Permit #57764U, Dillingham, Alaska.

The workers stopped fishing in July 2000, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would service no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 31st day of October 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–29633 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–7225]

Permit # 60833F, Egegik, AK; 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. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, Permit #60833F, Egegik, Alaska.

The workers stopped fishing in June 1999, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would service no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 31st day of October 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–29634 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—6508]

Pliant Solutions, Fort Edward, NY; 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 August 23, 2002, in response to a worker petition which was filed by PACE International Union, AFL–CIO, Local #01–0013 on behalf of workers at Pliant Solutions, Fort Edward, New York.

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 30th day of October, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–29628 Filed 11–20–02; 8:45 am]

BILLING CODE 4510–30–P

MERIT SYSTEMS PROTECTION BOARD

Privacy Act of 1974; Amendment of Privacy Act System of Records

AGENCY: Merit Systems Protection Board.

ACTION: Notice of amendment to existing system of records.

SUMMARY: The Merit Systems Protection Board (MSPB or the Board) is issuing public notice of its intent to amend a Government-wide system of records that it maintains subject to the Privacy Act of 1974 (5 U.S.C. 552a). MSPB/GOVT–1, ''Appeals and Case Records,'' is being amended to reflect the Board's implementation of a Document Management System (DMS) to manage all documents created by the Board during the processing of a case and all documents that are received electronically from the parties. (At present, the DMS is used only to manage documents created by the Board. When the Board implements its planned electronic filing system, the DMS will be used to manage documents received from the parties as well.) The

Board is also adding a routine use for the disclosure of information in case files to officials of State or local bar associations. The amended system of records reads as follows:

MSPB/GOVT–1

SYSTEM NAME:

Appeals and Case Records.

SYSTEM LOCATION:

Office of the Clerk of the Board and Office of Information Resources Management, Merit Systems Protection Board (MSPB), 1615 M Street, NW., Washington, DC 20419, and MSPB regional and field offices (see list of office addresses in the Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former Federal employees, applicants for employment, annuitants, and other individuals who have filed appeals with MSPB or its predecessor agency, or with respect to whom the Special Counsel or a Federal agency has petitioned MSPB concerning any matter over which MSPB has jurisdiction.

b. Current and former employees of State and local governments who have been investigated by the Special Counsel and have had a hearing before MSPB concerning possible violation of the Hatch Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

a. These records contain information or documents such as briefs, pleadings, motions, exhibits, hearing transcripts, and MSPB decisions, which comprise the administrative records of appeals and other matters arising under the adjudicatory authority of the Board. These records also contain individual appellant's names, social security numbers, home addresses, veteran's status, race, sex, national origin, and disability status data.

b. This system also includes the Board's Case Processing System (CPS). The CPS was designed to manage all documents created by the Board during the processing of a case, as well as documents that are received electronically from the parties. At the present time, the CPS includes a Document Assembly System to create documents, a Document Management System to manage and store documents, and a Case Management System to record activities in cases, track the location of case files, and produce statistical reports on cases. When completely implemented, the CPS will also include an Electronic Filing and Electronic Publishing System to allow the parties to send and receive case documents electronically.

Note: This system includes records and documents compiled by Federal agencies in processing adverse actions and actions based on unacceptable performance, covered by OPM/GOVT–3, when such actions are appealed to MSPB.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1204.

PURPOSE(S):

a. These records are used to document and adjudicate appeals and other matters arising under the Board's appellate and original jurisdiction.

b. These records also serve a management information function by providing statistical data for reports, physical file location, and staff productivity.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information from the record may be disclosed:

a. To officials of the Equal Employment Opportunity Commission or a Special Panel convened under authority of 5 U.S.C. 7702 when requested in connection with the performance of their authorized duties;

b. To officials of the Office of Personnel Management, the Federal Labor Relations Authority, the Equal Employment Opportunity Commission, and the Office of Special Counsel in connection with the performance of their authorized duties;

c. To the Government Accounting Office in response to an official inquiry or investigation;

d. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual;

e. To an appropriate Federal or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where there is an indication of a violation or potential violation of civil or criminal law or regulation;

f. To the Office of Management and Budget at any stage in the legislative process in connection with private relief legislation as set forth in OMB Circular No. A–19;

g. To the Department of Justice when:

(1) The Board, or any component thereof; or

(2) Any employee of the Board in the employee's official capacity; or

(3) Any employee of the Board in the employee's individual capacity where the Department of Justice has agreed to represent the employee; or

(4) The United States

is a party to litigation or has an interest in such litigation and the use of such records is deemed to be relevant and necessary to the litigation, providing that the 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, or approval or consultation is required;

h. In any proceeding before a court or adjudicative body before which the Board is authorized to appear when:

(1) The Board, or any component thereof; or

(2) Any employee of the Board in the employee's official capacity; or

(3) Any employee of the Board in the employee's individual capacity where the Department of Justice has agreed to represent the employee; or

(4) The United States

is a party to litigation or has an interest in such litigation and the use of such records is deemed to be relevant and necessary to the litigation, providing that the 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, or approval or consultation is required;

i. To any person making a status inquiry regarding a proceeding before the MSPB;

j. To the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906;

k. In response to a request for discovery or for appearance of a witness, if the requested information is relevant to the subject matter involved in a pending judicial or administrative proceeding;

l. To Federal and State agencies for the purpose of providing MSPB with information concerning MSPB appellants, which information will be used, absent personal identifiers, in MSPB research projects mandated by 5 U.S.C. 1204(a)(3);

m. To officials of the United States Court of Appeals for the Federal Circuit in connection with the performance of their judicial functions; or

n. To officials of State or local bar associations or disciplinary boards or committees when they are investigating complaints against attorneys in connection with their representation of a party before the Board.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and binders and in computer storage media.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained, by social security numbers, and by MSPB docket numbers.

SAFEGUARDS:

Access to these records is limited to persons whose official duties require such access. Personal screening is employed to prevent unauthorized disclosure. Automated records in this system are maintained in a secure computer room in a building with restricted access. Automated records are protected from unauthorized access through password identification procedures and other system-based protection methods.

RETENTION AND DISPOSAL:

Paper records are maintained for up to one year after a final determination by MSPB or, in some instances, other administrative authorities or the courts. Thereafter, they are transferred to Regional Federal Records Centers or other appropriate facilities. Paper records are destroyed by the Federal Records Centers when the records are seven years old. Electronic records of the Case Management System may be maintained indefinitely, or until the Board no longer needs them.

SYSTEM MANAGERS AND ADDRESSES:

The Clerk of the Board and the Office of Information Resources Management, Merit Systems Protection Board, 1615 M Street, NW, Washington, DC 20419, and MSPB regional and field offices (see list of office addresses in the Appendix).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Clerk of the Board and must follow the MSPB Privacy Act regulations at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURES:

Individuals requesting access to their records should contact the Clerk of the Board. If the requester has reason to believe the records in question are located in a regional or field office, it is appropriate to submit the request to that office. Such requests should be addressed to the regional director or chief administrative judge (see list of office addresses in the Appendix).

Requests for access to records must follow the MSPB Privacy Act regulations at 5 CFR 1205.11.

CONTESTING RECORD PROCEDURES:

Individuals requesting amendment should write the Clerk of the Board. If the requester has reason to believe the records in question are located in a regional or field office, it is appropriate to submit the request to that office. Such requests should be addressed to the regional director or chief administrative judge (see list of office addresses in the Appendix).

Requests for amendment of records must follow the MSPB Privacy Act regulations at 5 CFR 1205.21.

These provisions for amendment of the record are not intended to permit the alteration of evidence presented in the course of adjudication before the MSPB either before or after the MSPB has rendered a decision on the appeal.

RECORD SOURCE CATEGORIES:

The sources of these records are:

a. The individual to whom the record pertains;

b. The agency employing the above individual;

c. The Merit Systems Protection Board, the Office of Personnel Management, the Equal Employment Opportunity Commission, the Office of the Special Counsel; and

d. Other individuals or organizations from whom the MSPB has received testimony, affidavits or other documents.

Appendix

Regional and Field Offices of the Merit Systems Protection Board

1. Atlanta Regional Office, Merit Systems Protection Board, 401 W. Peachtree Street, NE, Suite 1050, Atlanta, Georgia 30308
2. Boston Field Office, Merit Systems Protection Board, 99 Summer Street, Suite 1810, Boston, Massachusetts 02110
3. Central Regional Office, Merit Systems Protection Board, 230 South Dearborn Street, 31st Floor, Chicago, Illinois 60604
4. Dallas Field Office, Merit Systems Protection Board, 1100 Commerce Street, Room 620, Dallas, Texas 75242
5. Denver Field Office, Merit Systems Protection Board, 165 South Union Blvd., Suite 318, Lakewood, Colorado 80228
6. New York Field Office, Merit Systems Protection Board, 26 Federal Plaza, Room 3137–A, New York, New York 10278
7. Northeastern Regional Office, U.S. Customhouse, Room 501, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106
8. Western Regional Office, Merit Systems Protection Board, 250 Montgomery Street, Suite 400, San Francisco, California 94104
9. Seattle Field Office, Merit Systems Protection Board, 915 Second Avenue, Room 1840, Seattle, Washington 98174
10. Washington, DC Regional Office, Merit Systems Protection Board, 1800 Diagonal Road, Suite 205, Alexandria, Virginia 22314

DATES: Comments on this amendment must be received by the Clerk of the Board on or before December 31, 2002. (The Privacy Act, at 5 U.S.C. 552a(e)(11), requires that the public be provided a 30-day period in which to comment on an agency's intended use of information in a system of records. Appendix I to Office of Management and Budget (OMB) Circular A–130 requires an additional 10-day period—for a total of 40 days—in which to make such comments.) The amended system of records will be effective, as proposed, at the end of the comment period unless the Board determines, upon review of the comments received, that changes should be made. In that event, the Board will publish a revised notice in the **Federal Register**.

ADDRESSES: Submit comments to the Office of the Clerk of the Board, ATTN: Privacy Act Officer, Merit Systems Protection Board, 1615 M St., NW, Washington, DC 20419. Comments may be submitted by regular mail to this address, by facsimile to (202) 653–7130, or by e-mail to *mspb@mspb.gov.*

FOR FURTHER INFORMATION CONTACT: Michael H. Hoxie, Privacy Act Officer, at (202) 653–7200.

Dated: November 15, 2002.

Bentley M. Roberts, Jr.,

Clerk of the Board.

[FR Doc. 02–29561 Filed 11–20–02; 8:45 am]

BILLING CODE 7400–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of

records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before January 6, 2003. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–837–3698 or by e-mail to *records.mgt@nara.gov.* Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Paul Wester, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1505. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Defense, Defense Information Systems Agency (N1–371–02–8, 7 items, 7 temporary items). Records relating to legal advice and opinions, litigation proceedings, and nondisclosure agreements with private industry. Also included are electronic copies of documents created using electronic mail and word processing.

2. Department of Defense, Defense Logistics Agency (N1–361–03–1, 1 item, 1 temporary item). Electronic records maintained in a system that is used to track and control requests for facility and administrative support services and products.

3. Department of Energy, Bonneville Power Administration (N1–305–03–1, 34 items, 34 temporary items). Records relating to the management of power assets of the Federal Columbia River Power System. Included are such files as long-term direction studies, risk management assessments, budget analyses, investment strategies, meeting minutes, and research and development studies. Also included are electronic copies of documents created using electronic mail and word processing. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

4. Department of Justice, Drug Enforcement Administration (N1–170–03–1, 3 items, 3 temporary items). Inputs, electronic data, and documentation associated with an electronic system pertaining to the use of confidential sources.

5. Department of Justice, Criminal Division (N1–60–03–1, 8 items, 6 temporary items). Records of the Office of Enforcement Operations' Witness Immunity Unit. Included are such records as attorney search warrants and subpoenas, multi-district agreement requests, and pre-trial diversions. Also included are electronic copies of documents created using word processing and electronic mail. Recordkeeping copies of files relating to the prosecution of previously immunized witnesses and Dual Prosecution Policy Case Files are proposed as permanent.

6. Federal Emergency Management Agency, Response and Recovery Directorate (N1–311–01–5, 2 items, 1 temporary item). Electronic copies of documents created using word processing and electronic mail relating to the agency's role as chair and coordinator of the Emergency Services Sector working group of the President's Council on Y2K Conversion. Recordkeeping copies of these files are proposed for permanent retention.

7. Federal Energy Regulatory Commission, Office of External Affairs (N1–138–02–2, 3 items, 3 temporary items). Annual reports of Freedom of Information Act activities that are submitted directly to the Department of Justice. Also included are electronic copies of documents created using electronic mail and word processing.

8. Federal Trade Commission, Office of Information Management and Dissemination (N1–122–96–1, 4 items, 4 temporary items). Investigative case files, background materials, and electronic copies of records created using electronic mail and word processing.

9. Federal Trade Commission, Information and Technology Management Office (N1–122–96–3, 4 items, 4 temporary items). Consent case files, including both public and non-public files, and electronic copies of records created using electronic mail and word processing.

10. Federal Trade Commission, Information and Technology Management Office (N1–122–96–4, 6 items, 5 temporary items). Docket files,

including non-public and in camera files, procedural materials not entered into evidence, and electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of public documents that are made part of the record of each proceeding.

11. Millennial Housing Commission, Agency-wide (N1–220–02–24, 7 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing pertaining to agency activities. Recordkeeping copies of such files as surveys, reports, hearing transcripts, correspondence, meeting minutes, and the commission's web site are proposed for permanent retention.

12. National Commission on Library and Information Science, Library Statistics Program (N1–220–02–26, 3 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to the commission's Academic Library Survey. Recordkeeping copies of these files are proposed for permanent retention.

13. National Commission on Library and Information Science, Library Statistics Program (N1–220–02–27, 3 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to the commission's State Library Agency Survey. Recordkeeping copies of these files are proposed for permanent retention.

14. National Commission on Library and Information Science, Library Statistics Program (N1–220–02–28, 3 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to the commission's Library Cooperatives Survey. Recordkeeping copies of these files are proposed for permanent retention.

15. National Commission on Library and Information Science, Library Statistics Program (N1–220–02–30, 3 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to the commission's School Library Media Center Survey. Recordkeeping copies of these files are proposed for permanent retention.

16. National Commission on Library and Information Science, Library Statistics Program (N1–220–02–31, 3 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to the commission's Public Library Data Survey. Recordkeeping copies of these files are proposed for permanent retention.

17. National Commission on Library and Information Science, Library Statistics Program (N1–220–02–32, 3 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to general program matters. Recordkeeping copies of these files are proposed for permanent retention.

18. Securities and Exchange Commission, Office of Filings and Information Services (N1–266–02–1, 3 items, 3 temporary items). Inputs and master files of the Complaint Handling, Assignment, Response, and Tracking System, an electronic imaging system used to support and facilitate the tracking and reporting of complaints from investors. The system includes such data as investors' names and contact information and details of how, why, and when a person was defrauded or encountered problems. Also included are paper documents that have not been imaged. Significant accusations of securities violations that warrant investigation become part of an investigative case file; recordkeeping copies of significant cases were previously approved for permanent retention.

19. Social Security Administration, Deputy Commissioner for Finance, Assessment, and Management (N1–47–01–1, 6 items, 6 temporary items). Inputs, master files, system backups, documentation, and outputs for the Talking and Listening to Customers Electronic System, which is used for suggestions, compliments, and complaints received from agency employees and the public. Also included are electronic copies of records created using electronic mail and word processing.

Dated: November 14, 2002.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 02–29518 Filed 11–20–02; 8:45 am]

BILLING CODE 7515–01–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Daniel Schneider, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* December 3, 2002.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Exemplary Education Projects, submitted to the Division of Education at the October 15, 2002 deadline.

2. *Date:* December 3, 2002.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Library & Archival Preservation and Access/Reference Materials, submitted to the Division of Preservation and Access at the July 1, 2002 deadline.

3. *Date:* December 4, 2002.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Schools for a New Millennium, submitted to the Division of Education at the October 1, 2002 deadline.

4. *Date:* December 6, 2002.
Time: 8:30 a.m. to 5 p.m.
Room: 426.
Program: This meeting will review applications for Humanities Projects in

Museums and Historical Organizations, submitted to the Division of Public Programs at the September 16, 2002 deadline.

5. *Date:* December 6, 2002.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Library & Archival Preservation and Access/Reference Materials, submitted to the Division of Preservation and Access at the July 1, 2002 deadline.

6. *Date:* December 9, 2002.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Schools for a New Millennium, submitted to the Division of Education at the October 1, 2002 deadline.

7. *Date:* December 10, 2002.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Schools for a New Millennium, submitted to the Division of Education at the October 1, 2002 deadline.

8. *Date:* December 10, 2002.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Stabilization of Humanities Collections, submitted to the Division of Preservation and Access at the July 1, 2002 deadline.

9. *Date:* December 11, 2002.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Exemplary Education Projects, submitted to the Division of Education at the October 15, 2002 deadline.

10. *Date:* December 12, 2002.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Exemplary Education Projects, submitted to the Division of Education at the October 15, 2002 deadline.

11. *Date:* December 13, 2002.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Library & Archival Preservation and Access/Reference Materials, submitted to the Division of Education at the July 1, 2002 deadline.

12. *Date:* December 16, 2002.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Exemplary Education Projects, submitted to the Division of Education at the October 15, 2002 deadline.

Daniel Schneider,
Advisory Committee Management Officer.

[FR Doc. 02–29687 Filed 11–20–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:
Rule 0–1 [17 CFR 270.0–1], SEC File No. 270–472, OMB Control No. 3235–0531

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension and approval of the collection of information discussed below.

Investment companies (''funds'') are formed as corporations or business trusts under State law and, like other corporations and trusts, must be operated for the benefit of their shareholders.[1] Funds are unique, however, in that they are ''organized and operated by people whose primary loyalty and pecuniary interest lie outside the enterprise.'' [2] As described below, this ''external management'' of most funds presents inherent conflicts of interest and potential for abuses.

An investment adviser typically organizes a fund and is responsible for its day-to-day operations. The adviser provides the seed money, officers, employees, and office space, and usually selects the initial board of directors. In many cases, the investment adviser sponsors several funds that share administrative and distribution systems as part of a ''family of funds.'' As a result of this extensive involvement, and the general absence of shareholder activism, many investment advisers typically dominate the funds they advise.[3]

Investment advisers to funds are themselves generally organized as corporations, which have their own shareholders. These shareholders have an interest in the fund that is quite different from the interests of the fund's shareholders. For example, while fund shareholders ordinarily prefer lower fees (to achieve greater returns), shareholders of the fund's investment adviser might want to maximize profits through higher fees. And while fund shareholders might prefer that advisers use brokers that charge the lowest possible commissions, advisers might prefer brokers that will provide investment research in exchange for commissions. These types of conflicts (and others) resulted in the pervasive abuses in the fund industry that led Congress in 1940 to enact legislation regulating the activities of mutual funds.[4]

The Investment Company Act of 1940 (''Investment Company Act'' or ''Act'') establishes a comprehensive regulatory scheme designed to protect fund investors by addressing the conflicts of interest between funds and their investment advisers and other affiliated persons. The Investment Company Act places significant responsibility on the board of directors in overseeing the operations of the fund and policing conflicts of interest.[5]

Independent fund directors represent the interests of shareholders, acting as watchdogs for investors and providing a check on management. On January 2, 2001, the Commission adopted amendments to ten exemptive rules under the Act that were designed to enhance the effectiveness of boards of directors of funds and to better enable investors to assess the independences of those directors.[6] In the Adopting Release, the Commission amended rule 0–1 to add a definition of ''independent legal counsel.'' The Adopting Release amended the exemptive rules to require that any person who acts as legal counsel to the independent directors of any fund relying on the rules must be an ''independent legal counsel.'' This requirement was added because independent directors can better perform the responsibilities assigned to them under the Act and the rules if they

[1] See generally James M. Storey and Thomas M Clyde, Mutual Fund Law Handbook 7.2 (1998).

[2] Division of Investment Management, SEC, Protecting Investors: A Half Century of Investment Company Regulation 251 (1992).

[3] See SEC, Report on the Public Policy Implications of Investment Company Growth, H.R. Rep. No. 2337, 89th Cong., 2d. Sess. 12, 127, 148 (1966) (stating that funds generally are formed by their advisers and remain under their control, and that advisers' influence permeates fund activities).

[4] See Storey and Clyde, supra note 1.

[5] For instance, Fund directors must approve investment advisory and distribution contracts (15 U.S.C. 80a–15(a), (b), and (c)).

[6] Role of Independendent Directors of Investment Companies, Investment Company Act Release No. 24816 (Jan. 2, 2001) [66 FR 3735 (Jan. 16, 2001)] (''Adopting Release'').

have the assistance of a truly independent legal counsel.

Rule 0–1 provides that a person is an independent legal counsel if a fund's independent directors determine (and record the basis for that determination in the minutes of their meeting) that any representation of the fund's investment adviser, principal underwriter, administrator (collectively, ''management organizations'') or their ''control persons'' [7] during the past two years is or was sufficiently limited that that it is unlikely to adversely affect the professional judgment of the person in providing legal representation. In addition, the independent directors must have obtained an undertaking from the counsel to provide them with information necessary to make their determination and to update promptly that information when the person begins to represent, or materially increases his representation of, a management organization or control person. Generally, independent directors must re-evaluate their determination at least annually.

Any fund that relies on an exemptive rule in the Adopting Release is required to use the definition of independent legal counsel contained in rule 0–1. We assume that approximately 4,050 funds rely on at least one of the exemptive rules annually.[8] We further assume that the independent directors of approximately one-third (1,336) of those funds would need to make the required determination in order for their counsel to meet the definition of independent legal counsel.[9] We estimate that each of these 1,336 funds would be required to spend, on average, 0.75 hours annually to comply with the proposed recordkeeping requirement concerning this determination, for a total annual burden of approximately 1,002 hours. Based on this estimate, the total annual cost for all funds of this proposed definition would be approximately $22,712. To calculate this total annual cost, the Commission staff assumed that two-thirds of the total annual hour burden (668 hours) would be incurred by professionals with an average hourly wage rate of $27 per hour, and one-third of that annual hour burden (334 hours) would be incurred by clerical staff with an average hourly wage rate of $14 [10] per hour.[11]

These burden hour estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Compliance with the collection of information requirements of the rule is mandatory and is necessary to comply with the requirements of the rule in general. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: November 14, 2002.

Jill M. Peterson,

Assistant Secretary.

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[7] A ''control person'' is any person—other than a fund—directly or indirectly controlling controlled by, or under common control, with any of the fund's management organizations. See 17 CFR 270.01(a)(6)(iv)(B).

[8] Based on statistics compiled by Commission staff, we estimate that there are approximately 4,500 funds that could rely on one or more of the exemptive rules. Of those funds, we assume that approximately 90 percent (4,050) actually rely on at least one exemptive rules annually.

[9] We assume that the independent directors of the remaining two-thirds of those funds will choose not to have counsel (but instead rely in some circumstances on counsel who does not represent them), so that no determination by the independent directors would be necessary.

[10] The Commission's estimates concerning the wage rate for professional time and for clerical time are based on salary information for the securities industry complied by the Securities Industry Association. See Securities Industry Association, *Report on Management and Professional Earnings in the Securities Industry* (September 2001).

[11] (668 × $27/hour) + (334 × $14/hour) = $22,712.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27601; 70–10047]

PG&E Corporation, *et al.*; Order Authorizing an Extension of Time to File Comments

November 15, 2002.

PG&E Corporation (''PG&E Corp.''), a holding company claiming exemption from registration under section 3(a)(1) of the Public Utility Holding Company Act of 1935, as amended (''Act'') by rule 2, Pacific Gas and Electric Company (''PG&E''), a direct public-utility company subsidiary of PG&E Corp., Newco Energy Corporation (''Newco''), a direct nonutility subsidiary of PG&E, and Electric Generation LLC (''Gen''), a direct nonutility subsidiary of Newco (collectively, ''Applicants''), all located in San Francisco, California, have filed an application (''Application'') with the Securities and Exchange Commission (''Commission'') under sections 9(a)(2) and 10 of the Act.

On October 16, 2002, the Commission issued a notice of the Application (Holding Co. Act Release No. 27578). The Commission issued a supplemental notice (Holding Co. Act Release No. 27583) of the Application, which replaced the original notice, on October 23, 2002. Under the supplemental notice, the public many submit to the Commission comments regarding the Application through November 18, 2002.

By letter dated October 23, 2002, the California Public Utilities Commission (''CPUC'') requested an extension of time to file its comments with the Commission (''CPUC Request'') due to ''the press of other work.'' The CPCU asked that it be allowed to file its comments on or before December 4, 2002.

By letter dated October 30, 2002, Applicants indicated that they oppose the CPUC request, primarily because a further extension of the notice period would delay the ultimate resolution of the Application. However, a further short extension of the notice period is not likely to delay in any significant way a final decision on the Application. Moreover, because the Act is designed to augment State regulation, *see Alabama Electric Cooperative* v. *S.E.C.,* 353 F.2d 905, 907 (D.C. Cir. 1865), *cert. denied* 383 U.S. 968 (1966), we believe that it is particularly appropriate to provide a short additional extension of the Notice period at the request of a State Commission.

It is ordered, under the applicable provisions of the Act and rules under the Act, that comments and/or requests for hearing in this matter should be filed in writing by December 4, 2002.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–29538 Filed 11–20–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27602]

Filings Under the Public Utility Holding Company Act of 1935, As Amended (''Act'')

November 15, 2002.

Notice is hereby given that the following filings have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 10, 2002 to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After December 10, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

American Electric Power Service Corporation (70–8531)

American Electric Power Service Corporation (''AEPSC''), 1 Riverside Plaza, Columbus, Ohio 43215, a service company subsidiary of American Electric Power Corporation (''AEP''), a registered holding company, has filed a post-effective amendment to an application under sections 9(a) and 10 of the Act and rule 54 under the Act.

By order dated April 26, 1995 (HCAR No. 26280) (''Initial Order'') the Commission authorized Central and South West Services, Inc. (''CSWS''), a service company subsidiary of Central and South West Corporation (''CSW''), a registered holding company, to use excess resources in its engineering and construction department, which resources may not be needed to provide services to affiliates within its system at any given time, to provide power plant control system procurement, integration and programming services, and power plant engineering and construction services to nonaffiliated utilities through December 31, 1997. By order dated December 11, 1997 (HCAR No. 26794) (''Extension Order''), the Commission extended the term of the authority granted by the Initial Order through December 31, 2002.By order dated July 21, 1998 (HCAR No. 26898) (''Supplemental Order'') the Commission approved an application to more accurately define engineering and construction services provided to nonaffiliated entities and to permit the provision of environmental licensing, testing, compliance and remediation as well as equipment maintenance to nonaffiliated entities.

By order dated June 24, 2000 (HCAR No. 27186) (''Merger Order'') the Commission approved, among other things the merger of CSW and AEP, the merger of CSWS into AEPSC, the succession of AEPSC to the authority granted in the Initial Order, the Extension Order and the Supplemental Order, and the extension of that authorized activity to all affiliate companies in the post-merger AEP system.

AEPSC now requests that the Commission amend the authority granted in the Initial Order, as amended by the Extension Order, the Supplemental Order, and the Merger Order, to extend through June 30, 2005.

Entergy Corporation, et al. (70–9123)

Entergy Corporation (''Entergy''), 639 Loyola Avenue, New Orleans, Louisiana 70113, a registered holding company; Entergy's wholly owned subsidiaries Entergy Enterprises, Inc. (''Enterprises''), Entergy Global Power Operations Corporation (''Global''), Entergy Power Operations U.S., Inc. (''Power US''), all located at 20 Greenway Plaza, Houston, Texas 77046; Entergy Nuclear, Inc. (''Nuclear''), 1340 Echelon Parkway, Jackson, Mississippi 39213, Entergy Operations Services, Inc. (''Operations''), and Entergy Power, Inc., 110 James Parkway West, St. Rose, Louisiana 70087 (''Power'' and combined ''Applicants'') have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b), 12(c), and 13(b) of the Act and rules 54, 90, and 91 under the Act.

By order dated June 22, 1999 (''June Order''),[1] the Commission granted authority: (1) For Entergy to acquire, directly or indirectly, the securities of one or more companies (''New Subsidiaries'') organized for purposes of performing development activities and/or for purposes of acquiring, including financing or refinancing an acquisition, owning and holding the securities of: (a) ''exempt wholesale generators'' (''EWGs''), as defined in section 32(a) of the Act, (b) ''foreign utility companies'' (''FUCOs''), as defined in section 33(a) of the Act, (c) ''exempt telecommunications companies'' (''ETCs''), as defined in section 34(a) of the Act, (d) other subsidiary companies that are authorized or permitted by rule, regulation or order of the Commission under the Act to engage in other businesses (''Authorized Subsidiary Companies''),[2] (e) other New Subsidiaries and/or, (f) ''energy related companies'', as defined in rule 58 under the Act (''Rule 58 Companies''); (2) for Entergy to acquire, directly or indirectly, the securities of one or more operating and management companies (''O&M Subs'') organized for the purpose of providing operations and maintenance services (''O&M Services'') to nonassociate companies and associate nonutility companies (collectively, with the companies described in (1) above, ''Nonutility Companies''); (3) for Nonutility Companies to issue and sell securities to Entergy, to other Nonutility Companies and/or to nonassociate companies for the purpose of financing or refinancing investments in Nonutility Companies; (4) for Nonutility Companies to provide services at other than cost under specific circumstances; (5) for Nonutility Companies to pay dividends out of unearned surplus; and (6) for Entergy to consolidate or reorganize Entergy's ownership interests in one or more Nonutility Companies.

Applicants now request an extension of authority for the activities listed in (1) through (6) above, through December 31, 2005 (''Authorization Period''). In addition, Entergy requests a new authorization to make initial investments, directly or indirectly, in the New Subsidiaries or O&M Subsidiaries of up to an aggregate amount of $750 million (''Investment Limit'') through the Authorization Period.

I. Acquisitions and Related Financings of New Subsidiaries and O&M Subs

Applicants propose to acquire, directly or indirectly, the securities of one or more New Subsidiaries. New Subsidiaries will be organized in order to: (1) Engage in service and development activities and/or (2)

[1] *See* HCAR No. 27039 (June 22, 1999).

[2] Authorized Subsidiary Companies currently consist of: Enterprises; Power; Entergy Nuclear, Inc.; Entergy Nuclear Operations, Inc.; Entergy Operations Services, Inc.; Global; Power U.S., Entergy Nuclear Fuels Company; Entergy Shaw, LLC; EN Services, LP; and Gulf South Pipeline, LP.

acquire and/or finance the acquisition of the securities of one or more Nonutility Companies. Applicants also propose that Entergy organize and acquire the capital stock of O&M Subs through December 31, 2005. O&M Subs will be formed as domestic or foreign corporations, partnerships or other entities.

Applicants request authority for Entergy to make investments in New Subsidiaries and O&M Subsidiaries by any combination of: (1) Purchases of equity interests (''Equity Capital'');[3] (2) capital contributions; (3) open account advances without interest and (4) loans and guarantees of securities or other obligations of New Subsidiaries and O&M Subs. Applicants state that Entergy will obtain funds for these investments from proceeds of previously authorized borrowings, sales of its common stock, future authorized securities issuances and other available cash resources. Applicants commit that the initial investments in the Equity Capital of New Subsidiaries and O&M Subs will be included in the Investment Limit.

Applicants state that loans by Entergy or a Nonutility Company to a Nonutility Company generally will have interest rates and maturity dates designed to parallel Entergy's effective cost of capital. Loans by Entergy or a Nonutility Company to a Nonutility Company that is partially owned by Entergy, directly or indirectly, however, may have interest rates and maturity dates designed to provide a return to the holding company of not less than its effective cost of capital (''Other Loans''). The principal amount of Other Loans by Entergy or a Nonutility Company to a Nonutility Company (including New Subsidiaries and O&M Subs) will be included in the Investment Limit. Applicants state that a Nonutility Company to which Other Loans are made will not provide any services to a Nonutility Company that does not meet one of the conditions for the rendering of services on a basis other than cost, as described below.

Applicants assert that there are a number of legal and business reasons for the use of special purpose subsidiaries such as the New Subsidiaries in connection with investments in Nonutility Companies. For example, the formation and acquisition of special purpose subsidiaries is often necessary or desirable to facilitate the acquisition and ownership of a FUCO, an EWG or another Nonutility Company. Furthermore, the laws of some foreign countries may require that the bidder in a privatization program be a domestic company in that country. In these cases, Applicants state that it would be necessary for Entergy to form a foreign subsidiary as the entity submitting the bid or other proposal. In addition, the interposition of one or more New Subsidiaries may allow Entergy to defer the repatriation of foreign source income, take full advantage of favorable tax treaties among foreign countries, or otherwise to secure favorable U.S. income tax treatment that would not otherwise be available. Applicants state that New Subsidiaries also serve to isolate business risks, facilitate subsequent adjustments or sales to ownership interests by the members of an ownership group, or to raise debt or equity capital in domestic or foreign markets.

Applicants state that, to the extent that Entergy provides funds to a New Subsidiary that are used for the purposes of investing in an EWG or FUCO, the amount of the investment will be included in Entergy's ''aggregate investment'' in these entities, as calculated in accordance with rule 53. Additionally, Applicants assert that, to the extent that Entergy provides funds to a New Subsidiary which are used to invest in a Rule 58 Company, the amount of the investment will be included in Entergy's ''aggregate investment'' as defined under rule 58.

II. Issuance of Securities

Applicants also requests authorization for Nonutility Companies to issue and/or sell equity or debt securities in an aggregate amount up to the Investment Limit, including common stock, LLC member interests, partnership and limited partnership interests, preferred stock or other preferred or equity-linked securities (collectively, ''preferred securities''), short-term debt securities, such as promissory notes or commercial paper, and long-term debt securities (collectively, ''Other Securities'') to Entergy, to other Nonutility Companies or to nonassociate companies, including banks, insurance companies, and other financial institutions during the Authorization Period.

Other Securities will be subject to the following financing parameters:

(1) The effective cost of money on long-term debt borrowings will not exceed the greater of (i) 500 basis points over the comparable-term U.S. Treasury securities or (ii) a gross spread over U.S. Treasuries that is consistent with similar securities of comparable credit quality and maturities issued by other companies.

(2) The effective cost of money on short-term debt borrowings will not exceed the greater of (i) 500 basis points over the comparable-term London Interbank Offered Rate (''LIBOR'') or (ii) a gross spread over LIBOR that is consistent with similar securities of comparable credit quality and maturities issued by other companies.

(3) The dividend rate on any series of preferred securities will not exceed the greater of (i) 500 basis points over the yield to maturity of a U.S. Treasury security having a remaining term equal to the term of the series of preferred securities or (ii) a rate that is consistent with similar securities of comparable credit quality and maturities issued by other companies.

Also, in the case of the issuance of any Other Securities that involve loans by Entergy or a Nonutility Company to a Nonutility Company at interest rates and maturities designed to provide a return to the lending company in excess of its effective cost of capital, the borrowing Nonutility Company will not provide any services to any associate Nonutility Company except a company which meets one of the conditions for the rendering of services on a basis other than ''at cost'', as described below.[4]

Applicants state that the net proceeds from the issuance and sale of Other Securities would be used for general corporate purposes, for example: (1) For loans to and/or equity investments in Nonutility Companies; (2) for the repayment, refinancing or redemption of outstanding securities of Entergy or Nonutility Companies originally issued for purposes of acquiring interests in Nonutility Companies or providing funds for the authorized or permitted business activities of Nonutility Companies and (3) for working capital or other cash requirements of Nonutility Companies, provided that the net proceeds will only be applied to finance activities that are exempt under the Act or are otherwise authorized or permitted by rule, regulation or order of the Commission. Applicants state that at the time of issuance of any Other Securities that are recourse to Entergy, directly or indirectly, the proceeds of which are to be used to invest in any Exempt Project,

[3] Equity Capital may include purchases of capital shares, partnership interests, member interests in limited liability companies, trust certificates or other forms of equity interests.

[4] Applicants request that Non-utility Companies be permitted to modify the terms of their charters or other governing documents (''Charter Amendments'') as necessary to effectuate the issuance of Other Securities. Entergy would describe the general terms of any Charter Amendment in the next quarterly certificate filed with the Commission pursuant to rule 24 in this file.

the amount will be counted towards Entergy's ''aggregate investment'' in EWGs and FUCOs as required under rule 53.

Entergy represents that none of Entergy's operating companies (''Operating Companies'')[5] will incur any indebtedness, extend any credit, or sell or pledge its assets, directly or indirectly, to or for the benefit of any Nonutility Company, and that any Other Securities that may be issued by a Nonutility Company, and any guarantees that may be issued by Entergy or a Nonutility Company, will not be recourse to any Operating Company.

III. Provision of O&M Services and Other Services

Applicants propose that Entergy provide O&M Services, through one or more O&M Subs. O&M Services would be provided to, or for the benefit of, associate and nonassociate developers, owners and operators of domestic and foreign power projects and other electric utility systems or facilities. O&M Services may be provided to projects that Entergy may develop on its own, through an associate Nonutility Company, or in collaboration with third parties.

O&M Services would include, for example, development, engineering, design, construction and construction management, pre-operational start-up, testing and commissioning, long-term operations and maintenance, fuel procurement, management and supervision, technical and training, administrative support, market analysis, consulting, coordination and any other managerial, technical, administrative or consulting required in connection with the business of owning or operating facilities used for the generation, transmission or distribution of electric energy (including related facilities for the production, conversion, sale or distribution of thermal energy) or coordinating their operations in the power market. Applicants also propose that an O&M Sub may also lease all or a portion of the facilities with respect to which it is providing O&M Services. However, Applicants state that an O&M Sub would not undertake to enter into leases without further approval of the Commission if, as a result thereof, the O&M Sub would become a ''public utility company'' as defined in the Act.

Applicants request authorization for Nonutility Companies (i) to provide other Nonutility Companies with administrative services (''Administrative Services''); (ii) to provide consulting services (''Consulting Services'') to other Nonutility Companies and to nonassociate companies and (iii) to engage in development activities (''Development Activities''), all on a worldwide basis. These services are referred to collectively as ''Other Services.''

Applicants state that Administrative Services would include, for example, corporate and project development and planning, management, administrative, employment, tax, legal, accounting, engineering, consulting, marketing, utility performance and electric data processing services, and intellectual property development, marketing and other support services.

Applicants state that Consulting Services would include, for example, providing Entergy system technical capabilities and expertise primarily in the areas of electric power generation, transmission and distribution and ancillary operations. Applicants represent that, except for consulting required in connection with the performance of O&M Services, O&M Subs will not provide Consulting Services to associate or nonassociate companies.

Applicants state that Development Activities would include, for example, investigating sites, research, engineering and licensing activities, acquiring options and rights, contract drafting and negotiation, legal, accounting and financial analysis, preparing and submitting bids and proposals, and other activities necessary to identify and analyze investment opportunities on behalf of companies in the Entergy system.[6]

Applicants request an exemption from the at-cost requirements of rules 90 and 91 for O&M Services rendered to Nonutility Companies, if one or more of the following conditions applies:

(i) The Nonutility Company is a FUCO or an EWG that derives no part of its income, directly or indirectly, from the generation and sale of electric energy within the United States;

(ii) The Nonutility Company is an EWG that sells electricity at market-based rates that have been approved by the FERC or the relevant state public utility commission, provided that the purchaser is not a Regulated Utility;

(iii) The Nonutility Company is a ''qualifying facility'' (''QF'') under the Public Utility Regulatory Policies Act of 1978, as amended (''PURPA''), that sells electricity exclusively at rates negotiated at arm's length to one or more industrial or commercial customers purchasing the electricity for their own use and not for resale, or to a electric utility company (other than a Regulated Utility) at the purchaser's ''avoided costs'' as determined under the regulations under PURPA and

(iv) The Nonutility Company is an EWG or QF that sells electricity at rates based upon its cost of service, as approved by the FERC or any state public utility commission having jurisdiction, provided that the purchaser of the electricity is not a regulated utility.

The Nonutility Companies described in clauses (i)–(iv) are referred to collectively below as ''Exempt Nonutility Companies.''

Applicants state that Other Services would generally be performed by Nonutility Companies for associate Nonutility Companies at cost. However, Applicants request an exemption from the at cost requirements of rules 90 and 91 for Other Services rendered to Exempt Nonutility Companies and to partially owned Nonutility Companies, provided that the ultimate purchaser of the Other Services is not an Operating Company, System Energy Resources, Inc., System Fuels, Inc., Entergy Services, Inc., Entergy Operations, Inc. or any other subsidiary that Entergy may create, the activities and operations of which are primarily related to the domestic sale of electric energy at retail (exclusive of Nonutility Companies) or at wholesale, or the provision of goods or services to Entergy's affiliates. In addition, Entergy requests that the exemption apply to Other Services provided by Nonutility Companies to any Nonutility Company (a) that is engaged solely in the business of developing, owning, operating and/or providing Other Services to Exempt Nonutility Companies, or (b) that does not derive, directly or indirectly, any material part of its income from sources within the United States and is not a public utility company operating within the United States.

IV. Reorganization

Entergy intends, from time to time, to consolidate or reorganize all or any part of its ownership interests in certain Nonutility Companies and/or New Subsidiaries under one or more New Subsidiaries. For example, to effect a reorganization, Entergy could directly or indirectly contribute to a New Subsidiary all of the outstanding Equity Capital of one or more Nonutility

[5] Entergy's regulated public utility companies Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc. and Entergy New Orleans, Inc. are referred to as the ''Operating Companies.''

[6] Applicants state that Development Activities would not be performed on behalf of any of Entergy's regulated utilities.

Companies (including a New Subsidiary) or sell the Equity Capital of one or more Nonutility Companies to a New Subsidiary. Alternatively, a Nonutility Company could distribute, as a dividend, the securities of one or more Nonutility Companies to a New Subsidiary.

Applicants request authority for Entergy to consolidate or otherwise reorganize its ownership interest in one or more Nonutility Companies under the New Subsidiaries so long as the acquisition of the securities of the Nonutility Company is authorized by the Commission or is exempt from the Act.

V. Payment of Dividends Out of Capital or Unearned Surplus by Nonutility Companies

Applicants request authority for a Nonutility Company to declare and pay dividends out of capital or unearned surplus to its immediate parent companies through December 31, 2005, subject to applicable corporate law and any applicable financing agreement that restricts distributions to shareholders.

FirstEnergy Corp., et al. (70–10079)

FirstEnergy Corporation (''FirstEnergy''), a registered holding company, Ohio Edison Company (''Ohio Edison''), a public-utility company subsidiary of First Energy and exempt holding company under section 3(a)(2) of the Act,[7] The Cleveland Electric Illuminating Company, a public-utility company subsidiary of First Energy, The Toledo Edison Company, a public-utility company subsidiary of First Energy, American Transmission Systems, Incorporated, a public-utility company subsidiary of First Energy, all at 76 South Main Street, Akron, Ohio 44308, Pennsylvania Power Company, 1 E. Washington Street, P.O. Box 891, New Castle, Pennsylvania 16103, a public-utility company subsidiary of Ohio Edison, Metropolitan Edison Company, 2800 Pottsville Pike, Reading, Pennsylvania 19640–0001, a public-utility company subsidiary of First Energy, Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 15907, a public-utility company subsidiary of First Energy, and Jersey Central Power & Light Company (collectively, ''Applicants''), Madison Avenue at Punchbowl Road, Morristown, New Jersey 07060–9871, a public-utility company subsidiary of First Energy, have filed an application under section 9(c)(3) of the Act.

By order dated October 29, 2001 (HCAR No. 27459), the Commission authorized FirstEnergy, which at the time was a holding company that claimed exemption from registration by rule 2, to merge with GPU, Inc., a registered holding company. In that order, the Commission also authorized FirstEnergy to retain its investments in low-income housing properties that qualified for Low Income Housing Tax Credits (''LITC Projects'') under section 42 of the Internal Revenue Code (''IRC''). As of December 31, 2001, FirstEnergy held, directly or indirectly, approximately $102 million of these types of passive investments.

Applicants request authority to invest, through December 31, 2005, up to $100 million in: (1) New or existing LIHTC Projects located anywhere in the United States; and (2) historic building or other qualified rehabilitated building projects (''Section 47 Projects'') located within their service territories. By investing in Section 47 Projects, Applicants would earn tax credits under section 47 of the IRC and, according to Applicants, FirstEnergy may also qualify for tax credits under state law.

Applicants would not take any active role in the development, management, or operation of any LIHTC Projects or Section 47 Projects (collectively, ''Tax Credit Projects''), and would not acquire any interest in any venture holding a Tax Credit Project if that venture would consequently become an ''affiliate'' of First Energy. Tax Credit Projects would be organized as limited liability partnerships or limited liability companies, and Applicants would invest only as a limited partner or non-managing member, respectively. In general, a separate limited partnership or manager-managed LLC would be established for each new qualifying Tax Credit Project. This structure would: (1) Allow each Tax Credit Project to be financed on a stand-alone basis, under the control of an unaffiliated third party; (2) insulate each investment property from any liabilities that may arise in connection with the development or management of any other Tax Credit Project; and (3) facilitate compliance with the requirements of sections 42 and 47 of the IRC Code.

Applicants commit to dispose of their ownership interests in each Tax Credit Project upon becoming fully vested in the tax credits, including any state credits.

Georgia Power Company (70–10080)

Georgia Power Company (''Georgia ''), 241 Ralph McGill Boulevard, NE., Atlanta, Georgia 30308, a public-utility subsidiary company of The Southern Company (''Southern''), a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act and rule 54 under the Act.

Georgia proposes to issue and sell, from time-to-time, through March 31, 2006 (the ''Authorization Period'') up to an aggregate principal amount at any one time outstanding up to $3.2 billion of the following: (1) Short-term notes to lenders; (2) commercial paper to or through dealers; and/or (3) issue non-negotiable promissory notes to public entities for their revenue anticipation notes.

Georgia proposes to borrow from certain banks or other lending institutions through the Authorization Period. The institutional borrowings will be evidenced by notes to be dated as of the date of such borrowings and to mature in not more than one year after the date of issue, or by ''grid'' notes evidencing all outstanding borrowings from each lender to be dated as of the date of the initial borrowing and to mature not more than one year after the date of issue. Georgia proposes that it may provide that any note evidencing such borrowings may not be prepayable, or that it may be prepaid with payment of a premium that is not in excess of the stated interest rate on the borrowing to be prepaid.

Borrowings will be at the lender's prevailing rate offered to corporate borrowers of similar quality. Such rates will not exceed the prime rate or (i) LIBOR plus up to 3% or (ii) a rate not to exceed the prime rate to be established by bids obtained from the lenders prior to a proposed borrowing. Compensation for the credit facilities may be provided by fees of up to 1% per annum of the amount of the facility. Compensating balances may be used in lieu of fees to compensate certain of the lenders.

Georgia also proposes to issue and sell commercial paper to or through dealers from time to time through the Authorization Period. Such commercial paper would be in the form of promissory notes with varying maturities not to exceed 390 days. Georgia states that the actual maturities would be determined by market conditions, the effective interest costs of issuing such commercial paper, and Georgia's anticipated cash flow, including the proceeds of other borrowings, at the time of issuance. The commercial paper notes will be issued in denominations of not less than $50,000 and will be sold by Georgia directly to or through dealer. The discount rate (or the interest rate in the case of interest-bearing notes), including any commissions, will not be in excess

[7] *See Ohio Edison,* HCAR No. 21019 (April 26, 1979).

of the discount rate per annum (or equivalent interest rate) prevailing at the date of issuance for commercial paper of comparable quality of the particular maturity sold by issuers to commercial paper dealers.

Georgia also proposes, through the Authorization Period, to effect short-term borrowings in connection with the financing of certain pollution control facilities through the issuance by public entities of their revenue bond anticipation notes. Under an agreement with each such public entity, the entity would effectively loan to Georgia the proceeds of the sale of such revenue bond anticipation notes, having a maturity of not more than one year after date of issue, and Georgia in turn would issue Georgia's non-negotiable promissory note. Such note would provide for payments to be made at times and in amounts which shall correspond to the payments with respect to the principal of, premium, if any, and interest, which shall not exceed the prime rate, on such revenue bond anticipation notes, whenever and in whatever manner the same shall become due, whether at stated maturity, upon redemption or declaration or otherwise.

By order dated March 13, 1996 (HCAR No. 26490) (''1996 Order''), the Commission authorized Georgia to effect short-term debt borrowings prior to January 1, 2003. By order dated November 8, 2000 (HCAR No. 27273) (''2000 Order'') (and together with the 1996 Order, the ''Financing Orders''), the Commission authorized Georgia to effect any such short-term borrowings through Southern's consolidated commercial paper program prior to June 30, 2004. According to the Financing Orders, any borrowings under the Financing Orders must be aggregated and may not exceed $1.7 billion. Georgia states that at August 14, 2002, borrowings in an aggregate principal amount of approximately $531,800,000 were outstanding under the Financing Orders.

The proceeds from the proposed borrowings will be used by Georgia for working capital purposes, including the financing in part of its construction program. None of the proceeds from any borrowing or from the sale of any of the notes will be used by Georgia, directly or indirectly, for the acquisition of any interest in an ''exempt wholesale generator'' or a ''foreign utility company,'' as those terms are defined in sections 32 and 33 of the Act, respectively. Georgia further states that, except as may be otherwise authorized by the Commission, any short-term borrowings of Georgia outstanding after March 31, 2006 will be retired from internal cash resources, the proceeds of equity financings or the proceeds of long-term debt.

Savannah Electric Power Company (70–10081)

Savannah Electric Power Company (''Savannah''), 600 East Bay Street, Savannah, Georgia 31401, a public-utility subsidiary company of The Southern Company (''Southern''), a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act and rule 54 under the Act.

Savannah proposes to issue and sell, from time-to-time, through March 31, 2006 (the ''Authorization Period'') up to an aggregate principal amount at any one time outstanding up to $120 million of the following: (1) Short-term notes to lenders; (2) commercial paper to or through dealers; and/or (3) issue non-negotiable promissory notes to public entities for their revenue anticipation notes.

Savannah proposes to borrow from certain banks or other lending institutions through the Authorization Period. The institutional borrowings will be evidenced by notes to be dated as of the date of such borrowings and to mature in not more than one year after the date of issue, or by ''grid'' notes evidencing all outstanding borrowings from each lender to be dated as of the date of the initial borrowing and to mature not more than one year after the date of issue. Savannah proposes that any note evidencing such borrowings may not be prepayable, or that it may be prepaid with payment of a premium that is not in excess of the stated interest rate on the borrowing to be prepaid.

Borrowings will be at the lender's prevailing rate offered to corporate borrowers of similar quality. The rates will not exceed the prime rate or (i) LIBOR plus up to 3% or (ii) a rate not to exceed the prime rate to be established by bids obtained from the lenders prior to a proposed borrowing. Compensation for the credit facilities may be provided by fees of up to 1% per annum of the amount of the facility. Compensating balances may be used in lieu of fees to compensate certain lenders.

Savannah also proposes to issue and sell commercial paper to or through dealers from time-to-time through the Authorization Period. The commercial paper would be in the form of promissory notes with varying maturities not to exceed 390 days. Actual maturities would be determined by market conditions, the effective interest costs of issuing such commercial paper, and Savannah's anticipated cash flow, including the proceeds of other borrowings, at the time of issuance. The commercial paper notes will be issued in denominations of not less than $50,000 and will be sold by Savannah directly to or through the dealer. The discount rate (or the rate in the case of interest-bearing notes), including any commissions, will not be in excess of the discount rate per annum (or equivalent interest rate) prevailing at the date of issuance for commercial paper of comparable quality of the particular maturity sold by issuers to commercial paper dealers.

Savannah also proposes, through the Authorization Period, to effect short-term borrowings in connection with the financing of certain pollution control facilities through the issuance by public entities of their revenue bond anticipation notes. Under an agreement with each public entity, the entity would effectively loan to Savannah the proceeds of the sale of such revenue bond anticipation notes, having a maturity of not more than one year after date of issue, and Savannah in turn would issue Savannah's non-negotiable promissory note. The note would provide for payments thereon to be made at times and in amounts which shall correspond to the payments with respect to the principal of, premium, if any, and interest, which shall not exceed the prime rate, on such revenue bond anticipation notes, whenever and in whatever manner the same shall become due, whether at stated maturity, upon redemption or declaration or otherwise.

By order dated March 13, 1996 (HCAR No. 26492) (''1996 Order''), the Commission authorized Savannah to effect short-term debt borrowings prior to January 1, 2003. By order dated November 8, 2000 (HCAR No. 27273) (''2000 Order'') (and together with the 1996 Order, the ''Financing Orders''), the Commission authorized Savannah to effect any such short-term borrowings through Southern's consolidated commercial paper program prior to June 30, 2004. According to the Financing Orders, any borrowings under the Financing Orders must be aggregated and may not exceed $90 million. At August 14, 2002, borrowings in an aggregate principal amount of approximately $29,400,000 were outstanding under the Financing Orders.

The proceeds from the proposed borrowings will be used by Savannah for working capital purposes, including the financing in part of its construction program. None of the proceeds from any borrowing or from the sale of any of the notes will be used by Savannah, directly

or indirectly, for the acquisition of any interest in an ''exempt wholesale generator'' or a ''foreign utility company,'' as those terms are defined in sections 32 and 33, respectively. Savannah further states that, except as may be otherwise authorized by the Commission, any short-term borrowings of Savannah outstanding after March 31, 2006 will be retired from internal cash resources, the proceeds of equity financings or the proceeds of long-term debt.

Mississippi Power Company (70–10082)

Mississippi Power Company (''Mississippi''), 2992 West Beach, Gulfport, Mississippi 39501, an public-utility subsidiary company of The Southern Company, a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act and rule 54 under the Act.

Mississippi proposes to issue and sell, from time-to-time, through March 31, 2006 (the ''Authorization Period'') up to an aggregate principal amount at any one time outstanding up to $500 million of the following: (1) Short-term and/or term-loan notes to lenders; (2) commercial paper to or through dealers; and/or (3) issue non-negotiable promissory notes to public entities for their revenue anticipation notes.

Mississippi proposes to borrow from certain banks or other lending institutions. The institutional borrowings will be evidenced by notes to be dated as of the date of such borrowings and to mature in not more than seven years after the date of issue, or by ''grid'' notes evidencing all outstanding borrowings from each lender to be dated as of the date of the initial borrowing and to mature not more than seven years after the date of issue. Mississippi proposes that any note evidencing such borrowings may not be prepayable, or that it may be prepaid with payment of a premium that is not in excess of the stated interest rate on the borrowing to be prepaid.

Borrowings will be at the lender's prevailing rate offered to corporate borrowers of similar quality. Such rates will not exceed the lenders prime rate or (i) LIBOR plus up to 3% or (ii) a rate not to exceed the prime rate to be established by bids obtained from the lenders prior to a proposed borrowing. Compensation for the credit facilities may be provided by fees of up to 1% per annum of the amount of the facility. Compensating balances may be used in lieu of fees to compensate certain of the lenders.

Mississippi also proposes to issue and sell commercial paper to or through dealers from time-to-time through the Authorization Period. Such commercial paper would be in the form of promissory notes with varying maturities not to exceed 390 days. Actual maturities would be determined by market conditions, the effective interest costs of issuing such commercial paper, and Mississippi's anticipated cash flow, including the proceeds of other borrowings, at the time of issuance. The commercial paper notes will be issued in denominations of not less than $50,000 and will be sold by Mississippi directly to or through the dealer. The discount rate (or the rate in the case of interest-bearing notes), including any commissions, will not be in excess of the discount rate per annum (or equivalent interest rate) prevailing at the date of issuance for commercial paper of comparable quality of the particular maturity sold by issuers to commercial paper dealers.

Mississippi also proposes, through the Authorization Period, to effect short-term borrowings in connection with the financing of certain pollution control facilities through the issuance by public entities of their revenue bond anticipation notes. Under an agreement with each such public entity, the entity would effectively loan to Mississippi the proceeds of the sale of such revenue bond anticipation notes, having a maturity of not more than one year after date of issue, and Mississippi in turn would issue Mississippi's non-negotiable promissory note. The note would provide for payments thereon to be made at times and in amounts which shall correspond to the payments with respect to the principal of, premium, if any, and interest, which shall not exceed the prime rate, on such revenue bond anticipation notes, whenever and in whatever manner the same shall become due, whether at stated maturity, upon redemption or declaration or otherwise.

By order dated March 13, 1996 (HCAR No. 26491) (''1996 Order''), the Commission authorized Mississippi to effect short-term borrowings prior to January 1, 2003. By order dated November 8, 2000 (HCAR No. 27273) (''2000 Order'') (and together with the 1996 Order, the ''Financing Orders''), the Commission authorized Mississippi to effect any such short-term borrowings through a Southern consolidated commercial paper program prior to June 30, 2004. According to the Financing Orders, any borrowings under the Financing Orders must be aggregated and may not exceed $350 million. At August 14, 2002, borrowings in an aggregate principal amount of approximately $14,900,000 were outstanding under the Financing Orders.

The proceeds from the proposed borrowings will be used by Mississippi for working capital purposes, including the financing in part of its construction program. None of the proceeds from any borrowing or from the sale of any of the notes will be used by Mississippi, directly or indirectly, for the acquisition of any interest in an ''exempt wholesale generator'' or a ''foreign utility company,'' as those terms are defined in sections 32 and 33 of the Act, respectively. Mississippi further states that, except as may be otherwise authorized by the Commission, any short-term or long-term borrowings of Mississippi outstanding after March 31, 2006 and March 31, 2013, respectively, will be retired from internal cash resources, the proceeds of equity financings or the proceeds of short-term or long-term debt.

Entergy Louisiana, Inc. (70–10086)

Entergy Louisiana, Inc. (''Entergy Louisiana''), 639 Loyola Avenue, New Orleans, Louisiana 70113, a direct, wholly owned public-utility subsidiary company of Entergy Corporation (''Entergy''), a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(c), and 12(d) of the Act and rules 42, 44, and 46 under the Act.

I. Current Financing Authority

By order dated March 12, 1998 (HCAR No. 26839, ''Prior Order''), the Commission authorized Entergy Louisiana to engage in a program of external financing and related transactions through December 31, 2002. Specifically, the Commission authorized Entergy Louisiana to: (1) Issue and sell up to a combined aggregate principal amount of $600 million of first mortgage bonds and/or debentures, with maturities not later than forty years and fifty years, respectively; (2) issue and sell up to a combined aggregate principal amount of $260 million of preferred stock and equity-linked securities; and (3) enter into arrangements for the issuance and sale of tax-exempt bonds in an aggregate principal amount of up to $420 million for the financing of pollution control facilities and sewage and/or solid waste disposal facilities, including the issuance and pledge of first mortgage bonds issued as collateral security for such tax-exempt bonds in an aggregate principal amount of up to $455 million (in addition to the $600 million referenced above).

II. Requested Authority

Entergy Louisiana requests authority, through March 31, 2006 (''Authorization Period''), to issue and sell up to an aggregate amount of $750 million (''Aggregate Limit'') in any combination of: (1) Unsecured long-term indebtedness (''Long-Term Debt''); (2) first mortgage bonds (''First Mortgage Bonds''); (3) preferred stock (''Preferred Stock''); and (4) other forms of preferred or equity-linked securities (''Other Securities''). The terms of the proposed securities are described below. Generally, the proceeds from sales of the proposed securities will be used by Entergy Louisiana for its general corporate purposes, including: financing its capital expenditures; repaying, redeeming, refunding or purchasing any of its securities issued in reliance on rule 42 and/or those securities issued on Entergy Louisiana's behalf under section 9(c)(1); and financing its working capital requirements.

Long-Term Debt may be convertible into any other securities of Entergy Louisiana (except common stock), and would have a maturity ranging between one and fifty years. These securities may be subject to optional and/or mandatory redemption, in whole or in part, at par or at premiums above the principal amount. Long-Term Debt may be entitled to mandatory or optional sinking fund provisions, and may provide for reset of the coupon under to a remarketing arrangement. Additionally, Long-Term Debt may be issued at fixed or floating rates of interest, and may be called from existing investors by a third party. The maturity dates, interest rates, redemption and sinking fund provisions and conversion features, if any, of Long-Term Debt, as well as any associated placement, underwriting or selling agent fees, commissions, and discounts, if any, would be established by negotiation or competitive bidding. The interest rate on Long-Term Debt would not exceed, at the time of issuance, the greater of: (1) 500 basis points over U.S. Treasury securities having a remaining term comparable to the term of such series, if issued at a fixed rate or, if issued at a floating rate, 500 basis points over the London Interbank Offered Rate (''LIBOR'') for the relevant interest rate period; and (2) a spread over U.S. Treasury securities or LIBOR, as the case may be, that is consistent with similar securities of comparable credit quality and maturities.

All First Mortgage Bonds will have maturities ranging between one and fifty years. First Mortgage Bonds may be subject to optional and/or mandatory redemption, in whole or in part, at par or at premiums above the principal amount. They may be entitled to mandatory or optional sinking fund provisions and may be issued at fixed or floating rates of interest. First Mortgage Bonds may provide for reset of the coupon in accordance with a remarketing arrangement and may be called from existing investors by a third party. Additionally, they may be backed by a bond insurance policy. The interest rate on First Mortgage Bonds will not exceed at the time of issuance the greater of: (1) 500 basis points over U.S. Treasury securities having a remaining term comparable to the term of such series if issued at a fixed rate or, if issued at a floating rate, 500 basis points over LIBOR for the relevant interest rate period; and (2) a spread over U.S. Treasury securities or LIBOR, as the case may be, that is consistent with similar securities of comparable credit quality and maturities issued by other companies.

Entergy Louisiana may issue and sell series of Preferred Stock to underwriters for deposit, which would subsequently be delivered to purchasers in a public offering. Preferred Stock and Other Securities may be issued in one or more series with rights, preferences and priorities, including those related to redemption, designated in the instrument creating the series. Preferred Stock or Other Securities may be redeemable, or may be perpetual in duration. The dividend rate on any series of Preferred Stock or Other Securities would not exceed at the time of issuance the greater of: (1) 500 basis points over the yield to maturity of a U.S. Treasury security having a remaining term comparable to the term of such series, if issued at a fixed rate or, if issued at a floating rate, 500 basis points over LIBOR for the relevant interest rate period; and (2) a rate that is consistent with similar securities of comparable credit quality and maturities. Dividends or distributions on Preferred Stock or Other Securities may be made subject to terms that allow the issuer to defer dividend payments for specified periods.

Entergy Louisiana requests authority to acquire during the Authorization Period all of the outstanding ownership interests of special purpose subsidiaries (''SPEs''), through which Entergy Louisiana would issue and sell Other Securities. Entergy Louisiana would hold the ownership interests of an SPE directly or indirectly. SPEs may be organized in any of the following corporate forms: A limited liability company; a limited partnership; a business trust; or any other domestic entity or structure considered advantageous by Entergy Louisiana.

Entergy Louisiana also requests authority to: (1) Acquire financing subsidiaries (''Financing Subsidiaries''), which would hold Entergy Louisiana's ownership interests in SPEs and, as discussed below, facilitate the issuance of Other Securities; and (2) acquire directly, or through a Financing Subsidiary, all of the ownership interests of one or more special purpose subsidiaries organized to hold certain types of ownership interests in SPEs (''Partner Subs''). Partner Subs would be created to hold: (1) Membership interests of an SPE where applicable State law requires that a limited liability company have at least two members; and (2) general partnership and/or limited partnership interests in an SPE to ensure that an SPE has a limited partner as may be required under applicable State law.

Entergy Louisiana, a Financing Subsidiary, and/or a Partner Sub would acquire all of the ownership interests of an SPE for an amount not less than the minimum required by applicable law.[8] Entergy Louisiana requests authority to issue and sell Other Securities either directly or through SPEs. Entergy Louisiana would finance any indirect issuance of Other Securities by directly, or through a Financing Subsidiary, issuing and selling to an SPE unsecured subordinated debentures, unsecured promissory notes or other unsecured debt instruments (''Notes'') governed by an indenture or other document. In turn, that SPE would use the Equity Contribution and proceeds from its sale of Other Securities (collectively, ''Proceeds'') to purchase those Notes. Alternatively, Entergy Louisiana and/or a Financing Subsidiary would enter into a loan agreement or agreements with a SPE under which the SPE would loan to Entergy Louisiana and/or a Financing Subsidiary the Proceeds from time to time, and Entergy Louisiana and/or the Financing Subsidiary would issue to the SPE Notes in an amount equal to the Proceeds. The terms (*e.g.*, interest rate, maturity, amortization, prepayment terms, default provisions, etc.) of all Notes would generally be designed to parallel the terms of the Other Securities to which the Notes relate, and so the maximum principal amount of Notes issued would not exceed the Proceeds. Correspondingly, Entergy Louisiana requests authority to issue and sell Notes directly and indirectly through a

[8] The aggregate amount of this investment by Entergy Louisiana, a Financing Subsidiary, and/or a Partner Sub is referred to here as the ''Equity Contribution.''

Financing Subsidiary to the SPEs. Additionally, Entergy Louisiana requests authority for the Financing Subsidiaries and/or SPEs to transfer (directly or indirectly) the proceeds from sales of Other Securities to Entergy Louisiana, resulting in the payment of dividends out of capital to Entergy Louisiana.

Solely in connection with the issuance of Other Securities by a SPE, Entergy Louisiana and the Financing Subsidiaries also request authority to guarantee: (1) Payment of dividends or distributions on Other Securities by the SPE if and to the extent the SPE has funds legally available; (2) payments to the holders of such securities due upon liquidation of the SPE or redemption of the Other Securities of the SPE; and (3) certain additional amounts that may be payable in respect of such Other Securities. Entergy Louisiana also requests authority to provide credit support for any guaranty that is provided by a Financing Subsidiary.

Entergy Louisiana also requests authority through the Authorization Period to enter into arrangements (''Arrangements'') with one or more government authorities (each, ''Issuer'') to issue and sell on behalf of the company up to an aggregate amount of $420 million of tax exempt bonds (''Tax-Exempt Bonds'') under one or more trust indentures (collectively, ''Indentures'') between the Issuer(s) and one or more trustees.[9] Under the Arrangements, Entergy Louisiana would be obligated to make payments sufficient to provide for payment by the Issuer(s) of the principal or redemption price of, premium (if any) and interest on, and other amounts owing with respect to the Tax-Exempt Bonds, together with related expenses. Proceeds from the sale of the Tax-Exempt Bonds would be applied to financing, or refinancing existing tax-exempt bonds issued for the purpose of financing, certain Entergy Louisiana pollution control facilities and/or sewage or solid waste disposal facilities (''Facilities'').

Under the Arrangements, Entergy Louisiana may be required to issue and pledge first mortgage bonds (''Collateral Bonds'') as collateral for the Tax-Exempt Bonds. Correspondingly, Entergy Louisiana requests authority through the Authorization Period to issue and sell up to an aggregate amount of $470 million of Collateral Bonds.[10] Under the terms of the Facilities Agreement, the Issuer(s) may purchase from Entergy Louisiana the subject Facilities, and Entergy Louisiana would then repurchase the Facilities from the Issuer(s). Correspondingly, Entergy Louisiana requests authority through the Authorization to sell the Facilities, which are utility assets.

Each series of Tax-Exempt Bonds would have a maturity ranging from one to forty years. Additionally, Tax-Exempt Bonds may: (1) Be subject to optional and/or mandatory redemption at par or at premiums above the principal amount; (2) be subject to mandatory or optional sinking fund provisions; (3) provide for reset of the coupon in accordance with a remarketing arrangement; (4) be issued at fixed or floating rates of interest; (5) be called from existing investors by a third party; (6) be backed by a municipal bond insurance policy; (7) be supported by credit support such as a bank letter of credit and reimbursement agreement; and (8) may be supported by a subordinated lien on the facilities related to the Tax-Exempt Bonds. The maturity dates, interest rates, redemption and sinking fund provisions and conversion features, if any, with respect to Tax-exempt Bonds of a particular series, as well as any associated placement, underwriting or selling agent fees, commissions and discounts, if any, will be established by negotiation or competitive bidding. The interest rate on Tax-Exempt Bonds would not exceed at the time of issuance the greater of: (1) 400 basis points over U.S. Treasury securities having a remaining term comparable to the term of such series if issued at a fixed rate or, if issued at a floating rate, 400 basis points over LIBOR for the relevant interest rate period; and (2) a spread over U.S. Treasury securities or LIBOR, as the case may be, that is consistent with similar securities of comparable credit quality and maturities issued on behalf of companies.

Entergy Louisiana represents that it would not issue any of the proposed securities if, as a consequence of the issuance, the common equity component of the company's capital structure would comprise less than thirty percent of its total capitalization. Entergy Louisiana also represents that it would not publicly issue any senior secured indebtedness that is rated by any nationally recognized statistical rating organization (''nationally recognized statistical rating organization''), as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of rule 15c3–1 under the Securities Exchange Act of 1934, unless the securities are rated at the investment grade level as established by at least one such nationally recognized statistical rating organization, except for: (1) New debt issued to refund or redeem existing debt that, if voluntarily refunded is at a lower effective after-tax cost of money, (b) debt issued to replace currently maturing debt; or (2) privately-placed debt.

American Electric Power Service Corporation (70–10092)

American Electric Power Service Corporation (''AEP Service''), a New York corporation, 1 Riverside Plaza, Columbus, Ohio 43215, and a wholly owned subsidiary of American Electric Power Company Inc., a New York corporation (''AEP'') and a registered holding company under the Act, has filed an application-declaration (''Application'') under sections 9(a), 10 and 11 of the Act and rule 54 under the Act.

AEP Service seeks an extension of the authority granted in previous orders to license and sell to nonassociate entities specialized computer programs and to provide support services to licensees and entities that have purchased this software. The authority is sought for the period through December 31, 2008 (''Authorization Period'').

By order dated August 10, 1990 (HCAR No. 35–25132), the Commission authorized Central and South West Services Inc., a Delaware corporation (''CSW Services'') to license and sell to nonassociate entities through December 31, 1992, specialized computer programs and to provide support services to licensees and entities that purchased the software. Support services included program enhancements and problem resolution. CSW Services was merged into AEP Service on December 31, 2000, as described below. By order dated December 18, 1992 (HCAR No. 35–25132), the Commission authorized CSW Services to license and sell to nonassociate entities through December 31, 1994, specialized computer programs and to provide support services to licensees and entities that purchased such software. These support services were to be sold to nonassociate entities for an amount not less than CSW Services' cost. By order dated December 28, 1994 (HCAR No. 35–26206), the Commission extended the term of the authority granted to CSW Services in the above described orders and granted CSW Services the authority through December 31, 1997, to make expenditures up to $1 million per calendar year and $250,000 per project

[9] Arrangements would consist of leases, subleases, installment sale agreements, or other agreements (collectively, ''Facilities Agreement'') or, alternatively, one or more refunding agreements (each, ''Refunding Agreement'')

[10] The proposed $470 million of Collateral Bonds is in addition to the Aggregate Limit.

to develop or change software for nonassociate entities, to market software, services, and reserve computer capacity and to add up to ten employees to support these activities. The order also authorized CSW Services to sell reserve computer capacity (in amounts up to 50% of its total capacity) and provide data management services to nonassociate entities, largely customers of its associate public utility companies. By order dated December 11, 1997 (HCAR No. 35–26795), the Commission extended the authorization granted in the previous order through December 31, 2002. By order dated June 14, 2000 (HCAR 35–27186), AEP was authorized to acquire by merger all of the outstanding common stock of Central and South West Corporation, a registered holding company and the parent of CSW Services. By that order, CSW Services was merged into AEP Service and the authority granted to CSW Services in HCAR No. 35–26206 was vested in AEP Service.

AEP Service is party to a Software Distribution and License Agreement with a corporation for the licensing and distribution and support for a software system and method for managing special or complex billing for larger utility customers or commodity/service providers. As the authority granted in HCAR No. 35–26206 expires December 31, 2002, AEP Service requests that the Commission authorize it to:

(1) License and sell to nonassociates through December 31, 2008, specialized computer programs;

(2) Provide support services to licensees and entities that purchase its software, including program enhancements and problem resolution;

(3) Make expenditures up to $1 million per calendar year and $250,000 per project to develop or change software, to market software and services;

(4) Sell reserve computer capacity (in amounts up to 50% of its total capacity); and

(5) Provide data management services to nonassociate entities.

Entergy Louisiana, Inc. (70–10098)

Entergy Louisiana, Inc. (''ELI''), 4809 Jefferson Highway, Jefferson, Louisiana 70121, a wholly owned electric public utility subsidiary of Entergy Corporation (''Entergy''), a registered holding company, has filed a declaration (''Declaration'') under section 12(c) of the Act and rules 42, 46, 53, and 54 under the Act.

ELI states that it maintains a purchased power contract (''Power Contract'') with Catalyst Old River Hydroelectric Limited Partnership. Under Internal Revenue Code Section 475, ELI was able to elect to take a mark-to-market tax deduction of approximately $2.316 billion in association with the Power Contract and in conjunction as part of the Entergy Corporation consolidated tax return for the tax year ending December 31, 2001. This election is expected to provide a cash flow benefit to ELI of approximately $700–$800 million during the fourth quarter of 2002. As of June 30, 2002, ELI had retained earnings of approximately $193 million. Subsequent to receipt of the cash flow benefit, but prior to December 31, 2003, ELI proposes to make one or more dividend payments to Entergy from capital surplus or to repurchase up to 46,000,000 shares of ELI's common stock from Entergy, provided that the aggregate of the dividends and common stock repurchases will not exceed $350 million (''Transaction Limit''). ELI states that it will pay book value for each share of common stock that it repurchases.[11]

ELI represents that, upon effecting any of the proposed dividend payments or common stock repurchase transactions, its common equity capital will not fall below thirty percent of its total consolidated capitalization. ELI further represents that its cash position after any payments or repurchase will be sufficient to allow it to continue to meet its projected capital requirements and other obligations.

ELI further states that certain supplemental indentures under ELI's April 1, 1944 Mortgage and Deed of Trust contain covenants (''Dividend Covenants'') generally limiting the aggregate amount of dividends/distributions on ELI's common stock and repurchases by ELI of its common stock to the sum of (a) the aggregate amount credited to earned surplus subsequent to the date of the applicable supplemental indenture, (b) a specific dollar amount set forth in the applicable supplemental indenture, and (c) ''such additional amounts as shall be authorized or approved, upon application by [ELI], by the Securities and Exchange Commission, or by any successor commission thereto, under the Public Utility Holding Company Act of 1935.'' ELI states that it anticipates that the aggregate amount of dividends or common stock purchases proposed in this Declaration will reduce the amount available to pay dividends under these Dividend Covenants by a like amount. Accordingly, ELI requests that the Commission specifically authorize or approve ''such additional amounts'' of dividends or common stock purchases as may be necessary to implement the dividends and stock repurchase activities up to the $350 million Transaction Limit for purposes of each applicable Dividend Covenant.

[11] Applicant defines book value per share as $7.75 per share at June 30, 2002.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–29592 Filed 11–20–02; 8:45 am]

BILLING CODE 8010–01–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46839; File No. SR–OPRA–2002–03]

Options Price Reporting Authority; Notice of Filing of a Proposal To Revise the Required Form of Vendor Agreement Under Section VII(b) of the OPRA Plan

November 14, 2002.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'') and Rule 11Aa3–2 under,[1] notice is hereby given that on July 12, 2002, the Options Price Reporting Authority (''OPRA''),[2] submitted to the Securities and Exchange Commission (''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan''). The amendment would revise the form of Vendor Agreement that is required to be entered into between OPRA and vendors of options information under Section VII(b) of the OPRA Plan. The Commission is publishing this notice to solicit comments on the proposed amendment to the OPRA Plan from interested persons.

[1] 17 CFR 240.11Aa3–2.

[2] OPRA is a national market system plan approved by the Commission pursuant to Section 11A of the Exchange Act, 15 U.S.C. 78k–1, and Rule 11Aa3–2 thereunder, 17 CFR 240.11Aa3–2. *See* Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The five signatories to the OPRA Plan that currently operate an options market are the American Stock Exchange, the Chicago Board Options Exchange, the International Securities Exchange, the Pacific Exchange, and the Philadelphia Stock Exchange. The New York Stock Exchange is a signatory to the OPRA Plan, but sold its options business to the Chicago Board Options Exchange in 1997. *See* Securities Exchange Act Release No. 38542 (April 23, 1997), 62 FR 23521 (April 30, 1997).

I. Description and Purpose of the Amendment

The purpose of the proposed amendment is to revise the form of Vendor Agreement that is required to be entered into between OPRA and vendors of options information under Section VII(b) of the Plan. The Vendor Agreement governs the terms and conditions under which vendors are permitted to redistribute options market data to subscribers and other end users of the information. The proposed revisions are intended to update the Vendor Agreement (and attachments to the Vendor Agreement) in light of changes in technology and other developments that have occurred since that agreement was last revised. These changes have previously been reflected in a series of riders to the Vendor Agreement, consisting of the ''Voice-Synthesized Market Data Service Rider'', the ''Radio-Paging Market Data Service Rider'', the ''Dial-up Market Data Service Rider'' and the ''Electronic Contract Rider.'' As technology has continued to develop, these riders have themselves become either irrelevant or outdated. The proposed amendment to the Vendor Agreement reflects the elimination of the Radio-Paging Rider, which is no longer in use, and the integration and updating of the other three riders in the body of the Vendor Agreement and in a new Attachment C to the Vendor Agreement.

The proposed amendment also responds to the fact that, pursuant to procedures described in the existing Dial-up Market Data Service Rider as well as in provisions of the current Vendor Agreement applicable to nonprofessional subscribers, an increasing number of OPRA Subscribers enter into contracts directly, and in some cases electronically, with vendors for the receipt of options information, rather than entering into Professional Subscriber Agreements with OPRA. All nonprofessional subscribers contract directly with vendors, as do ''dial-up'' customers, whether professional or nonprofessional.[3] Under the current Vendor Agreement and its riders, OPRA provides a form of Nonprofessional Subscriber Agreement and a form of electronic customer dial-up agreement for use by vendors in contracting with those of their customers to which these forms of agreement apply, and permits vendors to enter into other forms of agreements with their dial-up customers subject to OPRA's prior approval. The proposed revised Vendor Agreement consolidates these different forms of agreements between vendors and their customers into a single standard form ''Subscriber Agreement,'' without making any significant substantive changes to the current forms. Attachments B–1 and B–2 to the Vendor Agreement represent electronic and hard-copy versions of the Subscriber Agreement, respectively. OPRA proposes that these new standard versions of the Subscriber Agreement could be used by vendors to contract with professional or nonprofessional subscribers without any further approval by OPRA. Vendors would still be permitted to use their own customized agreements to contract with subscribers, which would continue to be subject to prior approval by OPRA. Those vendors who choose to use their own agreements would nevertheless benefit from the new preapproved standard versions, which may serve as models for drafting customized agreements that will satisfy OPRA's requirements.

The proposed revised Vendor Agreement also updates certain terminology to reflect developments in technology. Specifically, the concept of a ''dial-up'' customer, which was an accurate description of the way many nonprofessional subscribers accessed options market data several years ago, has been eliminated in recognition of the transformation of the electronic distribution of information resulting from the availability of the Internet and other information networks. Although in practice OPRA has recognized this development by expanding its view of what constitutes ''dial-up'' access, the proposed amendment to the Vendor Agreement now codifies this practice in the language of the Agreement.

The proposed revised Vendor Agreement continues to describe two categories of Subscribers: ''Professional Subscribers'' and ''Nonprofessional Subscribers.'' As is currently the case, any Professional Subscriber who pays either OPRA's traditional device-based information fees or its flat ''enterprise rate'' fee in order to access options market data would enter into a Professional Subscriber Agreement directly with OPRA. As an alternative to these arrangements, such persons may enter into Subscriber Agreements with vendors, in which case the vendors would pay usage-based fees to OPRA. Also as is currently the case, Nonprofessional Subscribers would be required to enter into Subscriber Agreements with vendors pursuant to which vendors pay to OPRA either a reduced, flat-rate nonprofessional subscriber fee or a usage-based fee that is capped at the reduced flat-rate fee. Commonly, vendors pass through to their customers any access fees paid to OPRA by the vendors on their customers' behalf, although they are not required to do so. The proposed revised Vendor Agreement does not change the substance of these arrangements and does not propose to change the amount of OPRA's access fees, but it does provide a single, all-purpose form of Subscriber Agreement (in both electronic and hard-copy versions) that may be used by vendors to contract directly with their customers.

The proposed revised Vendor Agreement also includes new provisions to implement various aspects of OPRA's proposed new BBO (best bid and offer) Service, which is currently the subject of a separate proposed Plan amendment currently pending before the Commission.[4] In this regard, the proposed revised Vendor Agreement provides that a vendor satisfies its obligation to include consolidated options market data in its market information service if, at a minimum, the service includes options last sale information and the consolidated BBO provided by OPRA. This would permit a vendor to include additional unconsolidated information in its service so long as this required minimum consolidated information is included. The proposed revised Vendor Agreement permits a vendor to exclude from its BBO service either the quote size or the market identifier associated with a BBO or both, so long as in excluding information the vendor does not discriminate on the basis of the market in which quotations are entered. Additionally, if a vendor excludes the market identifier associated with the BBO from a dynamically updated service, it would be required to make that information available to recipients of the dynamically updated service through an inquiry-only service provided without additional cost. Quote size and market identifier information included in a vendor's service would be required to be on as current a basis as the information is reported by OPRA. Because the proposed Plan amendment pertaining to OPRA's proposed BBO Service provides for the inclusion of an approximation of the size associated with the BBO rather than the actual size (in order to reduce the message-handling capacity needed to carry the BBO Service), the proposed revised Vendor Agreement requires any vendor that includes size in its BBO service to

[3] The term ''dial-up'' customer is explained in the text below.

[4] *See* Securities Exchange Act Release No. 45532 (March 11, 2002), 67 FR 11727 (March 15, 2002) (File No. SR–OPRA–2002–01).

disclose to its customers that the included size is an approximation of the actual size, and that the actual size is available on OPRA's full quotation service.

Finally, Attachment A to the proposed revised Vendor Agreement is OPRA's current fee schedule, revised only to reflect changes in terminology without any changes in the nature or amount of the fees themselves.

The text of the proposed new Vendor Agreement, Fee Schedule, Form of Electronic subscriber Agreement, Form of Hardcopy Subscriber Agreement, and Conditions for Use of Electronic Subscriber Agreement, is available at the principal offices of OPRA, Commission's Public Reference Room, and on the Commission's Internet website (*http://www.sec.gov/rules/sro/shtml*).

II. Implementation of Plan Amendment

OPRA proposes to begin to use the revised Vendor Agreement as soon as it has been approved by the Commission. Existing vendors would be expected to sign the revised Vendor Agreement to replace their existing Agreements with OPRA, but would continue to be able to act as vendors under their existing Vendor Agreements. Existing vendors that wish to take advantage of the provision of the revised Agreement that allows them to satisfy their obligation to provide consolidated options market information by furnishing only last sale information and the BBO would be required to sign the revised Agreement. All new vendors would be required to sign the revised Agreement. Existing customers of vendors that have previously entered into nonprofessional subscriber agreements or dial-up customer agreements with their vendors would not be required to re-sign the new form of subscriber agreement.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan amendment 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, and all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment between the Commission and any person, other than those 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 at the principal offices of OPRA. All submissions should refer to File No. SR–OPRA–2002–03 and should be submitted by December 12, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–29593 Filed 11–20–02; 8:45 am]

BILLING CODE 8010–01–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46835; File No. SR–Amex–2002–70]

Self Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating to Trust Certificates Linked to a Basket of Investment Grade Corporate Debt

November 14, 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 28, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in items I and II below, which items have been prepared by the Exchange. On October 16, 2002, the Amex filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to approve for listing and trading under Section 107A of the Amex Company Guide (''Company Guide''), trust certificates linked to a basket of investment grade fixed income corporate debt instruments.

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 Amex 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 III below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under section 107A of the Company Guide, the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.[4] The Amex proposes to list for trading under section 107A of the Company Guide, asset-backed securities (the ''ABS Securities'') representing ownership interests in the Select Income Trust 2002–1 (the ''Trust''), a special purpose entity to be formed by Structured Obligations Corporation (''SOC''),[5] and the trustee of the Trust pursuant to a trust agreement, which will be entered into on the date that the ABS Securities are issued. The assets of the Trust will consist primarily of a basket or portfolio of up to approximately twenty-five investment-grade fixed-income securities (the ''Underlying Corporate Bonds'').

The issuance of the ABS Securities will be a repackaging of the Underlying Corporate Bonds with the obligation of the Trust to make distributions to holders of the ABS Securities depending solely on the amount of distributions received by the Trust in the Underlying Corporate Bonds. At the time of issuance, the ABS Securities will receive an investment grade rating from a nationally recognized securities rating organization (an ''NRSRO''). Due to the pass-through and passive nature of the ABS Securities, the Exchange intends to

[5] 17 CFR 200.30–3(a)(29).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See letter from Jeffrey P. Burns, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated October 15, 2002 (''Amendment No. 1''). Amendment No. 1 replaces Amex's original proposal in its entirety.

[4] *See* Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990) (order approving File No. SR–Amex-89–29).

[5] SOC is a wholly-owned special purpose entity of J.P. Morgan Securities Holdings Inc. and the registrant under the form S–3 Registration Statement (No. 333–70730) under which the securities will be issued.

rely on the assets and stockholder equity of the Underlying Corporate Bonds rather than the Trust to meet the requirement in section 107A of the Company Guide. The distribution and principal amount/aggregate market value requirements found in sections 107A(b) and (c), respectively, will otherwise be met by the Trust as issuer of the ABS Securities.[6] Thus, the ABS Securities will conform to the initial listing guidelines under section 107A [7] and continued listing guidelines under sections 1001–1003[8] of the Company Guide, except for the assets and stockholder equity characteristics of the Trust.

The basket of Underlying Corporate Bonds will not be managed and will generally remain static over the term of the ABS Securities. Each of the Underlying Corporate Bonds provides for the payment of interest on a semi-annual basis, but the ABS Securities will provide for monthly or quarterly distributions of interest. The Exchange represents that, to alleviate this cash flow timing issue, the Trust will enter into an interest distribution agreement (the ''Interest Distribution Agreement'') as described in the prospectus supplement related to the ABS Securities (the ''Prospectus Supplement'').[9] Principal distributions on the ABS Securities are expected to be made on dates that correspond to the maturity dates of the Underlying Corporate Bonds. However, some of the Underlying Corporate Bonds may have redemption provisions and in the event of an early redemption or other liquidation (*e.g.* upon an event of default) of the Underlying Corporate Bonds, the proceeds from such redemption (including any make-whole premium associated with such redemption) or liquidation will be distributed pro rata to the holders of the ABS Securities. Each Underlying Corporate Bond will be issued by a corporate issuer and purchased in the secondary market.

Holders of the ABS Securities generally will receive interest on the face value in an amount to be determined at the time of issuance of the ABS Securities and disclosed to investors. The rate of interest payments will be based upon prevailing interest rates at the time of issuance and made to the extent that coupon payments are received from the Underlying Corporate Bonds. Distributions of interest will be made monthly or quarterly. Investors will also be entitled to be repaid the principal of their ABS Securities from the proceeds of the principal payments on the Underlying Corporate Bonds. The payout or return to investors on the ABS Securities will not be leveraged.

The ABS Securities will mature on the latest maturity date of the Underlying Corporate Bonds. Holders of the ABS Securities will have no direct ability to exercise any of the rights of a holder of the Underlying Corporate Bonds; however, holders of the ABS Securities as a group will have the right to direct the Trust in its exercise of its rights as holder of the Underlying Corporate Bonds.

The Exchanges states that the proposed ABS Securities are similar to equity linked notes (''ELNs''), previously approved by the Commission, except that the cash flow from the proposed ABS Securities will come from a basket of investment-grade corporate bonds as compared to a single equity, basket of equity securities or equity index in the case of an ELN.[10] In addition, ELNs may or may not pay interest while the ABS Securities will pay interest monthly or quarterly based on the pass-through nature of the structure. Also, publicly issued asset-backed securities that repackage a single underlying corporate debt obligation are currently listed and traded on the New York Stock Exchange, Inc. (''NYSE'').[11] The proposed ABS Securities are similar to those repackaging transactions, except that the Trust will own more than one corporate debt obligation and, in the single repackaging transactions, there is no need for an Interest Distribution Agreement because the timing of the payment of interest on the underlying debt obligation matches the obligation to distribute interest on the repackaged securities. Accordingly, the Exchange proposes to provide for the listing and trading of the ABS Securities where the Underlying Corporate Bonds meet the Exchange's Bond and Debenture Listing Standards set forth in section 104 of the Amex Company Guide. The Exchange represents that all of the Underlying Corporate Bonds in the proposed basket will meet or exceed these listing standards.

The Exchange's Bond and Debenture Listing Standards in section 104 of the Company Guide provide for the listing of individual bond or debenture issuances provided the issue has an aggregate market value or principal amount of at least $5 million and any of: (1) The issuer of the debt security has equity securities listed on the Exchange (or on the NYSE or on the Nasdaq

[6] Telephone Conversation between Jeff P. Burns, Assistant General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division, Commission, on November 13, 2002.

[7] The initial listing standards for the ABS Securities require: (1) A minimum public distribution of one million units; (2) a minimum of 400 shareholders; (3) a market value of at least $4 million; and (4) a term of at least one year. However, if traded in thousand dollar denominations, then there is no minimum holder requirement. In addition, the listing guidelines provide that the issuer have assets in excess of $100 million, stockholder's equity of at least $10 million, and pre-tax income of at least $750,000 in the last fiscal year or in two of the three prior fiscal years. In the case of an issuer which is unable to satisfy the earning criteria stated in section 101 of the Company Guide, the Exchange will require the issuer to have the following: (1) Assets in excess of $200 million and stockholders' equity of at least $10 million; or (2) assets in excess of $100 million and stockholders' equity of at least $20 million.

[8] The Exchange's continued listing guidelines are set forth in sections 1001 through 1003 of part 10 to the Exchange's Company Guide. Section 1002(b) of the Company Guide states that the Exchange will consider removing from listing any security where, in the opinion of the Exchange, it appears that the extent of public distribution or aggregate market value has become so reduced to make further dealings on the Exchange inadvisable. With respect to continued listing guidelines for distribution of the ABS Securities, the Exchange will rely, in part, on the guidelines for bonds in section 1003(b)(iv). Section 1003(b)(iv)(A) provides that the Exchange will normally consider suspending dealings in, or removing from the list, a security if the aggregate market value or the principal amount of bonds publicly held is less than $400,000.

[9] Pursuant to the Interest Distribution Agreement, shortfalls in the amounts available to pay monthly or quarterly interest to holders of the ABS Securities due to the Underlying Corporate Bonds paying interest semi-annually will be made to the Trust by JP Morgan Chase Bank or one of its affiliates and will be repaid out of future cash flow received by the Trust from the Underlying Corporate Bonds.

[10] *See, e.g.*, Securities Exchange Act Release Nos. 44483 (June 27, 2001) 66 FR35677 (July 6, 2001) (approving the listing and trading of non-principal protected exchangeable notes linked to the Institutional Holdings Index); 44437 (June 18, 2001), 66 FR 33585 (June 22, 2001) (approving the listing and trading of non-principal protected exchangeable notes linked to the Industrial 15 Index); 44342 (May 23, 2001), 66 FR 29613 (May 31, 2001) (approving the listing and trading of non-principal protected exchangeable notes linked to the Select Ten Index); 42582 (March 27, 2000), 65 FR 17685 (April 4, 2000) (approving the listing and trading of notes linked to a basket of no more than twenty equity securities); 40956 (January 20, 1999), 64 FR 4480 (January 28, 1999) (approving the listing and trading of notes linked to Select Sector SPDRs); 37533 (August 7, 1996), 61 FR 42075 (August 13, 1996) (approving the listing and trading of the Top Ten Yield MITTS); and 32343 (May 20, 1993), 58 FR 30833 (May 27, 1993) (listing and trading of equity linked securities). *See also* Securities Exchange Act Release No. 41334 (April 27, 1999), 64 FR 23883 (May 4, 1999) (Bond Index Term Notes).

[11] *See, e.g.*, Structured Asset Trust Unit Repackagings (SATURNS), CSFB USA Debenture Backed Series 2002–10, 1,330,000 of 7.00% Class A Callable Units, dated August 15, 2002, and trading under the symbol ''MKK'; 1,380,000 PreferredPlus 8.375% Trust Certificates, underlying 7.05% Debentures of Citizens Communications Company, dated August 24, 2001, and trading under the symbol ''PIY'; and 1,980,000 Corporate Backed Trust Certificates, Royal & Sun Alliance Bond Backed Series 2002–2, underlying securities 8.95% subordinated guaranteed bonds issued by Royal & Sun Alliance Insurance Group plc, dated February 11, 2002, and trading under the symbol ''CCS.''

National Market (''Nasdaq'') [12]); (2) an issuer of equity securities listed on the Exchange (or on the NYSE or on Nasdaq) directly or indirectly owns a majority interest in, or is under common control with, the issuer of the debt security; (3) an issuer of equity securities listed on the Exchange (or on the NYSE or on Nasdaq) has guaranteed the debt security; (4) a NRSRO has assigned a current rating to the debt security that is no lower than an S&P Corporation ''B'' rating or equivalent rating by another NRSRO; or (5) or if no NRSRO has assigned a rating to the issue, an NRSRO has currently assigned (i) an investment grade rating to an immediately senior issue or (ii) a rating that is no lower than a Standard & Poor's Corporation (''S&P'') ''B'' rating or an equivalent rating by another NRSRO to a pari passu or junior issue.

In addition to the Exchange's Bond and Debenture Listing Standards, an Underlying Corporate Bond must also be of investment grade quality as rated by a NRSRO and at least 75% of the underlying basket is required to contain Underlying Corporate Bonds from issuances of $100 million or more. The maturity of each Underlying Corporate Bond is expected to match the payment of principal of the ABS Securities with the maturity date of the ABS Securities being the latest maturity date of the Underlying Corporate Bonds. Amortization of the ABS Securities will be based on: (1) The respective maturities of the Underlying Corporate Bonds; (2) principal payout amounts reflecting the pro-rata principal amount of maturing Underlying Corporate Bonds; and (3) any early redemption or liquidation of the Underlying Corporate Bonds.

Investors will be able to obtain the prices for the Underlying Corporate Bonds through Bloomberg L.P. or other market vendors, including the broker dealer through whom the investor purchased the ABS Securities. In addition, the Bond Market Association provides links to price and other bond information sources on its investor Web site at *http:\\www.investinginbonds.com.* Transaction prices and volume data for the most actively-traded bonds on the exchanges are also published daily in newspapers and on a variety of financial websites. The National Association of Securities Dealers, Inc. (''NASD'') Trade Reporting and Compliance Engine (''TRACE'') will also help investors obtain transaction information for most corporate debt securities, such as investment grade corporate bonds.[13] For a fee, investors can have access to intra-day bellwether quotes.[14] Price quotes are also available to institutional investors via proprietary systems such as Bloomberg, Reuters and Dow Jones Telerate. Valuation prices [15] and analytical data may be obtained through vendors such as Bridge Information Systems, Muller Data, Capital Management Sciences, Interactive Data Corporation and Barra.

The prices of the Underlying Corporate Bonds generally will be determined by one or more market makers in accordance with applicable statutory rules, self-regulatory organization rules and generally accepted accounting principles regarding the valuation of securities.

The ABS Securities will be listed in $1,000 denominations with the Exchange's existing debt floor trading rules applying to trading. First, pursuant to Amex rule 411, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the ABS Securities.[16] Second, the ABS Securities will be subject to the debt margin rules of the Exchange.[17] Third, the Exchange will, prior to trading the ABS Securities, distribute a circular to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the ABS Securities and highlighting the special risks and characteristics of the ABS Securities. With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the ABS Securities: (1) To determine that such transaction is suitable for the customer, and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of such transaction.

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the ABS Securities. Specifically, the Amex will rely on its existing surveillance procedures governing debt, which have been deemed adequate under the Act. In addition, the Exchange also has a general policy, which prohibits the distribution of material, non-public information by its employees.

2. Statutory Basis

The Exchange believes that the proposed rule change, a amended, is consistent with section 6 of the Act [18] in general and furthers the objectives of section 6(b)(5)[19] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange did not receive any written comments on the proposed rule change.

III. 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

[12] The Exchange inadvertently omitted the reference to Nasdaq in its description of Amex's section 104 Bond and Debenture Listing Standards. Telephone Conversation between Jeff P. Burns, Assistant General Counsel, Amex, and Sapna C. Patel, Attorney, Division, Commission, on November 4, 2002.

[13] *See* Securities Exchange Act Release No. 43873 (January 23, 2001), 66 FR 8131 (January 29, 2001). Investors are able to access TRACE information at *http://www.nasdbondinfo.com/.*

[14] Corporate prices are available at 20-minute intervals from Capital Management Services at *http://www.bondvu.com/.*

[15] ''Valuation Prices'' refer to an estimated price that has been determined based on an analytical evaluation of a bond in relation to similar bonds that have traded. Valuation prices are based on bond characteristics, market performance, changes in the level of interest rates, market expectations and other factors that influence a bond's value.

[16] Amex rule 411 requires that every member, member firm or member corporation use due diligence to learn the essential facts, relative to every customer and to every order or account accepted.

[17] *See* Amex rule 462.

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–2002–70 and should be submitted by December 12, 2002.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, 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, and, in particular, with the requirements of section 6(b)(5) of the Act.[20] The Commission finds that this proposal is similar to several approved equity-linked instruments currently listed and traded on the Amex,[21] as well as to asset-backed securities listed and traded on the NYSE.[22] Accordingly, the Commission finds that the listing and trading of the ABS Securites is consistent with the Act and will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, protect investors and the public interest consistent with section 6(b)(5) of the Act.[23]

As described more fully above, the ABS securities are asset-backed securities and represent a repackaging of the Underlying Corporate Bonds, subject to certain distribution of interest obligations of the Trust. The ABS Securities are not leveraged instruments. The ABS Securities are debt instruments whose price will still be derived and based upon the value of the Underlying Corporate Bonds. The Exchange represents that the value of the Underlying Corporate Bonds will be determined by one or more market makers, in accordance with Exchange rules and generally accepted principles of accounting regarding the valuation of securities. Investors are guaranteed at least the principal amount that they paid for the Underlying Corporate Bonds. In addition, each Underlying Corporate Bond will pay interest on a semi-annual basis, while the ABS securities themselves will pay interest on a monthly or quarterly basis, pursuant to the Interest Distribution Agreement. In addition, the ABS securities will mature on the latest maturity date of the Underlying Corporate Bonds.[24] However, due to the pass-through nature of the ABS Securities, the level of risk involved in the purchase or sale of the ABS Securites is similar to the risk involved in the purchase or sale of traditional common stock. The Commission notes that asset-backed securities that repackage a single underlying debt instrument are currently listed and traded on the NYSE. However, because the ABS Securities are asset-backed securities that repackage a basket of Underlying Corporate Bonds, instead of a single underlying corporate bond, there are several issues regarding the trading of this type of product that the Exchange must address.

The Commission notes that the Exchange's rules and procedures that address the special concerns attendant to the trading of hybrid securities will be applicable to the ABS Securities. In particular, by imposing the hybrid listing standards, suitability, disclosure, and compliance requirements noted above, the Commission believes the Exchange has addressed adequately the potential problems that could arise from the hybrid nature of the ABS Securites. Moreover, the Commission notes that the Exchange will distribute a circular to its membership calling attention to the specific risks associated with the ABS Securities.

The Commission notes that the ABS Securities are dependent upon the individual credit of the issuers of the Underlying Corporate Bonds. To some extent this credit risk is minimized by the Exchange's listing standards in section 107A of the Company Guide which provide that only issuers satisfying asset and equity requirements may issue securities such as the ABS Securites. In addition, the Exchange's ''Other Securities'' listing standards further provide that there is no minimum holder requirement if the securities are traded in thousand dollar denominations.[25] The Commission notes that the Exchange has represented that the ABS Securities will be listed in $1000 denominations with its existing debt floor trading rules applying to the trading. In any event, financial information regarding the issuers of the Underlying Corporate Bonds will be publicly available.[26]

Due to the pass-through and passive nature of the ABS Securities, the Commission does not object to the Exchange's reliance on the assets and stockholder equity of the Underlying Corporate Bonds rather than the Trust to meet the requirement in section 107A of the Company Guide. The Commission notes that the distribution and principal amount/aggregate market value requirements found in sections 107A(b) and (c), respectively, will otherwise be met by the Trust as issuer of the ABS Securities. Thus, the ABS Securities will conform to the initial listing guidelines under section 107A and continued listing guidelines under sections 1001–1003 of the Company Guide, except for the assets and stockholder equity characteristics of the Trust. At the time of issuance, the Commission also notes that the ABS

[20] *Id.*

[21] *See* Securities Exchange Act Release Nos. 45160 (December 17, 2001), 66 FR 66485 (December 26, 2001) (approving the listing and trading of non-principal protected notes linked to the Balanced Strategy Index) (File No. SR–Amex–2001–91); 44483 (June 27, 2001), 66 FR 35677 (July 6, 2001) (approving the listing and trading of non-principal protected notes linked to the Institutional Holdings Index) (File No. SR–Amex–2001–40); 44437 (June 18, 2001), 66 FR 33585 (June 22, 2001) (approving the listing and trading of non-principal protected notes linked to the Industrial 15 Index) (File No. SR–Amex–2001–39); 44342 (May 23, 2001), 66 FR 29613 (May 31, 2001) (accelerated approval order for the listing and trading of Select Ten Notes) (File No. SR–Amex–2001–28); 42582 (March 27, 2000), 65 FR 17685 (April 4, 2000) (accelerated approval order for the listing and trading of notes linked to a basket of no more than twenty equity securities) (File No. SR–Amex–99–42); 41546 (June 22, 1999), 64 FR 35222 (June 30, 1999) (accelerated approval order for the listing and trading of notes linked to a narrow based index with a non-principal protected put option) (File No. SR–Amex–99–15); 39402 (December 4, 1997), 62 FR 65459 (December 12, 1997) (notice of immediate effectiveness for the listing and trading non-principal protected commodity preferred securities linked to certain commodities indices) (File No. SR–Amex–97–47); 37533 (August 7, 1996), 61 FR 42075 (August 13, 1996) (accelerated approval order for the listing and trading of the Top Ten Yield Market Index Target Term Securities (''MITTS'')) (File No. SR–Amex–96–28); 33495 (January 19, 1994), 59 FR 3883 (January 27, 1994) (accelerated approval order for the listing and trading of Stock Upside Note Securities) (File No. SR–Amex–93–40); and 32343 (May 20, 1993), 58 FR 30833 (May 27, 1993) (accelerated approval order for the listing and trading of non-principal protected notes linked to a single equity security) (File No. SR–Amex–92–42).

[22] *See, e.g., supra* note 11.

[23] 15 U.S.C. 78f(b)(5). In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[24] The Commission notes, however, that the Exchange has represented that the Underlying Corporate Bonds may drop out of the basket upon maturity or upon payment default or acceleration of the maturity date for any default other than payment default. *See* Prospectus for a schedule of the distribution of interest and of the principal upon maturity of each Underlying Corporate Bond and for a description of payment default and acceleration of the maturity date. Telephone Conversation between Jeff P. Burns, Assistant General Counsel, Amex, and Sapna C. Patel, Attorney, Division, Commission, on November 4, 2002.

[25] *See* Company Guide section 107A.

[26] The ABS Securities will be registered under section 12 of the Act.

Securities will receive an investment grade rating from a nationally recognized securities rating organization (an ''NRSRO'').

The Commission also believes that the listing and trading of the ABS Securites should not unduly impact the market for the Underlying Corporate Bonds or raise manipulative concerns. As discussed more fully above, the Exchange represents that, in addition to requiring the issuers of the Underlying Corporate Bonds meet the Exchange's section 107A listing requirements, the Underlying Corporate Bonds will be required to meet or exceed the Exchange's Bond and Debenture Listing Standards pursuant to section 104 of the Amex's Company Guide, which among other things, requires that underlying debt instrument receive at least an investment grade rating of ''B'' or equivalent from am NRSRO. Furthermore, at least 75% of the basket is required to contain Underlying Corporate Bonds from issuances of $100 million or more. The Amex has also represents that the basket of Underlying Corporate Bonds will not be managed and will remain static over the term of the ABS securities. In addition, the Amex's surveillance procedures will serve to deter as well as detect any potential manipulation.

The Commission notes that the investors may obtain price information on the Underlying Corporate Bonds through market venders such Bloomberg, L.P., or though Web sites such as *http://www.investinbonds.com.*

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Amex has requested accelerated approval because this product is similar to several other equity-linked instruments currently listed and traded on the Amex,[27] and other asset-backed securities currently listed and traded on the NYSE.[28] The Commission believes that the ABS Securites will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading the ABS Securites promptly. Additionally, the ABS Securites will be listed pursuant to Amex's existing hybrid security listing standards as described above. Based on the above, the Commission believes that there is good cause, consistent with sections 6(b)(5) and 19(b)(2) of the Act [29] to approve the proposal, as amended, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[30] that the proposed rule change (SR–Amex–2002–70), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

J. Lynn Taylor,

Assistant Secretary.

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[27] *See supra* note 21.

[28] *See, e.g., supra* note 11.

[29] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46823; File No. SR–CBOE–2002–39]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Chicago Board Options Exchange, Inc. to Make Certain Changes Pertaining to the Enforcement of Trading Conduct and Decorum Policies

November 13, 2002.

On July 15, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' 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 relating to the enforcement of trading conduct and decorum policies. On August 30, 2002, CBOE submitted Amendment No. 1 to the proposed rule change.[3] On September 17, 2002, CBOE submitted Amendment No. 2 to the proposed rule change.[4] The proposed rule change, as amended, was published for comment in the **Federal Register** on October 11, 2002.[5] The Commission received no comments on the amended proposal. This order approves the proposed rule change, as amended.

The Exchange proposes to amend CBOE rule 6.20(c) (Admission to and Conduct on the Trading Floor—Fines Imposed by Floor Officials) to authorize two Floor Officials, in consultation with a designated senior executive officer of the Exchange, to summarily exclude a member or person associated with a member from the Exchange premises for not longer than the remainder of the trading day for any violation of the Exchange's trading conduct and decorum policies that is classified as a Class A offense, except for those Class A offenses specified by Exchange Regulatory Circulars [6] as not qualifying the offender for summary exclusion. The proposed rule will enable an excluded member or associated person to request reinstatement to the Trading Floor from Floor Officials after a sufficient ''cooling off period'' has elapsed.

Class A offenses are the most serious offenses regarding trading conduct and decorum policies, including but not limited to, violations such as physical violence (*e.g.*, shoving or fighting), unbusinesslike conduct,[7] harassment, failure to abide by a floor official determination, or property damage. Most Class A offenses affect the safety or security of personnel and/or property on the Exchange in ways that may be ameliorated by temporarily excluding the offender from Exchange premises. The Exchange also proposes that members be summarily excluded from Exchange premises for enabling or assisting a suspended member or associated person to gain improper access to the floor, and failing to supervise a visitor. As specified in the proposed Regulatory Circular, the Exchange proposes to distinguish three Class A offenses as not qualifying the offender for summary exclusion. These are (1) Failure to Attend Exchange Mandated Educational Training; (2) Effecting or Attempting to Effect a Transaction with No Public Outcry; and (3) Violation of CBOE Rule 8.51 (Firm Quote). According to the Exchange, it did not classify these offenses as qualifying for summary expulsion because it believes that, unlike the other Class A offenses, they do not raise

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* form 19b–4 received on August 30, 2002 (''Amendment No. 1'').

[4] *See* letter from Christopher R. Hill, Attorney II, Legal Division, CBOE, to Nancy Sanow, Division of Market Regulation (''Division''), Commission, dated September 16, 2002 (''Amendment No. 2'').

[5] *See* Securities Exchange Act Release No. 46600 (October 4, 2002), 67 FR 63480.

[6] Currently, only the proposed Regulatory Circular specifies which Class A offenses do, and which Class A offenses do not qualify the offender for summary exclusion. CBOE will file any additional Regulatory Circulars that specify which Class A offenses do or do not qualify the offender for summary exclusion with the Commission as a proposed rule change. Telephone call between Christopher R. Hill, Attorney II, Legal Division, CBOE, and Jennifer Lewis, Attorney, Division, Commission, on November 13, 2002.

[7] In general, ''unbusinesslike conduct'' is conduct, other than harassment, that disrupts trading. Telephone call between Christopher R. Hill, Attorney II, Legal Division, CBOE, and Jennifer Lewis, Attorney, Division, Commission, on September 30, 2002.

significant issues of safety or security at the Exchange.

The Exchange also proposes to amend CBOE rule 17.50(g)(6) (Imposition of Fines for Minor Rules Violations—Violations of Trading Conduct and Decorum Policies) to reflect the incorporation into the fine policies of specified higher fine levels for ''subsequent'' offenses. For example, the amended provision would enable the imposition of the fine authorized for a Class A ''subsequent'' offense to be imposed for a first, second or third Class A offense, if such is deemed warranted under the circumstances in the view of two Floor Officials.[8] Generally, however, the two Floor Officials will impose fines based upon the number of the offense that has occurred within a rolling 12-month period, except for Firm Quote violations, which will have a 24-month look back period.

Finally, the Exchange proposes to include in the proposed Regulatory Circular the fines that may be imposed under CBOE rule 17.50 for violations of CBOE rule 6.20.[9] Any person against whom a fine is imposed pursuant to CBOE rule 17.50(g) may contest that fine before the applicable CBOE Committee.[10]

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange [11] and, in particular, the requirements of section 6 of the Act [12] and the rules and regulations thereunder. Specifically, the Commission finds that the proposed rule change is consistent with sections 6(b)(5) [13] and 6(b)(7) [14] of the Act because the proposed rule change should protect investors and the public interest by enhancing the effectiveness and fairness of the Exchange's disciplinary procedures.

In particular, the Commission believes having the authority to temporarily exclude disruptive or potentially dangerous rule violators from the Exchange premises should assist the Exchange in defusing volatile situations, safeguarding trading floor personnel and facilities, and minimizing disruptions to the maintenance of fair and orderly markets. The Commission also believes the new Regulatory Circular sets forth appropriate fine levels for violations of Trading and Decorum Policies, which should deter violations of the Exchange's rules.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[15] that the proposed rule change (SR–CBOE–2002–39), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

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[8] The amended provision would also enable the imposition of the fine authorized for a Class B ''subsequent'' offense to be imposed for a first or second Class B offense, if such is deemed warranted under the circumstances in the view of two Floor Officials.

[9] The proposed Regulatory Circular will supersede and replace current CBOE Regulatory Circular RG 98–123. The proposed Regulatory Circular does not include three types of offenses that were set forth in Regulatory Circular RG 98–123: Disruptive Announcements of Stock Prints, Failure to Abide by Floor Official Request for Information; and Book Priority Determinations. According to the Exchange, these offenses are either no longer necessary or covered by other rules.

[10] *See* paragraph (4) of the proposed Regulatory Circular.

[11] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(7).

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46834; File No. SR–CHX–2002–27]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Stock Exchange, Incorporated Relating to the Listing and Trading of Fixed Income ETFs

November 14, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 26, 2002, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On November 12, 2002, CHX submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons, and to grant accelerated approval to the proposed rule change, as amended.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CHX Article XXVIII, Rule 24, to permit the listing and trading of fixed income Exchange Traded Funds (''ETFs''), which are based on indices of fixed income securities. Additionally, the Exchange seeks approval to trade, pursuant to unlisted trading privileges, the following series of the iShares Trust: iShares 1–3 Year Treasury Index Fund, iShares 7–10 Year Treasury Index Fund, iShares 20+ Year Treasury Index Fund, iShares Treasury Index Fund, iShares Government/Credit Index Fund, iShares Lehman Corporate Bond Fund and iShares Goldman Sachs Corporate Bond Fund. The text of the proposed rule change is below; new text is italicized.

* * * * *

Chicago Stock Exchange Rules

Article XXVIII

* * * * *

Investment Company Units

RULE 24. The Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, units of trading (''Units'') that meet the criteria of this Rule. A Unit is a security that represents an interest in a registered investment company (''Investment Company'') that could be organized as a unit investment trust, an open-end management investment company, or a similar entity.

(A) Original Unit Listing Standards

(1) The Investment Company must:

(a) Hold securities *(including fixed income securities)* comprising, or otherwise based on or representing an interest in, an index or portfolio of securities; or

(b) hold securities in another registered investment company that holds securities as described in (a) above.

An index or portfolio may be revised as necessary or appropriate to maintain the quality and character of the index or portfolio.

(2) The Investment Company must issue Units in a specified aggregate

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter Ellen J. Neely, Senior Vice President and General Counsel, CHX, to Nancy J. Sanow, Division of Market Regulation (''Division''), Commission, dated November 8, 2002 (''Amendment No. 1''). In Amendment No. 1, the Exchange added a representation relating to its surveillance procedures and explained why its rule prohibiting certain relationships between specialists and the issuer of a security did not apply to this rule filing.

number in return for a deposit (the ''Deposit'') consisting of either:

(a) A specified number of shares of securities *(or, if applicable, a specified portfolio of fixed income securities)* that comprise the index or portfolio, or are otherwise based on or represent an investment in securities comprising such index or portfolio, and/or a cash amount; or

(b) shares of a registered investment company, as described in clause (A)(1)(a) above, and/or a cash amount.

(3) Units must be redeemable, directly or indirectly, from the Investment Company for securities *(including fixed income securities)* and/or cash then comprising the Deposit. Units must pay holders periodic cash payments corresponding to the regular cash dividends or distributions declared with respect to the securities held by the Investment Company, less applicable expenses and charges.

* * * * *

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 CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend CHX Article XXVIII, Rule 24 to permit the Exchange to list and trade fixed income ETFs, which are based on indices of fixed income securities.

CHX Article XXVIII, Rule 24 provides standards for listing Investment Company Units, which are defined as securities representing ''an interest in a registered investment company that could be organized as a unit investment trust, open-end management investment company or similar entity.'' In addition to being registered under the Investment Company Act of 1940 (the ''1940 Act''), these securities are registered under the Exchange Act. The Exchange is proposing to amend this definition to permit the listing and trading of index-based fixed income investment products that are based on an index of fixed income securities. Examples of such products include U.S. government securities and corporate and non-corporate (other than U.S. government) debt securities. As amended, CHX Article XXVIII, Rule 24 would accommodate the listing and trading of Units based on an index of U.S. government debt securities (*e.g.*, securities issued or guaranteed by the U.S. Treasury, an agency or instrumentality of the U.S. government, or by a government-sponsored entity). Other products that could be listed or traded under this rule, as amended, could include Units based on an index of corporate and/or non-corporate debt securities.[4] The Commission has recently approved the requests of both the American Stock Exchange LLC (''Amex'') and the New York Stock Exchange (''NYSE'') to list and trade fixed income ETFs.[5] The Exchange believes that its proposed rule changes are substantially similar to those of the Amex and NYSE.

Accordingly, the Exchange proposes to amend CHX Article XXVIII, Rule 24 to specify that Investment Company Units may be: (1) Based on a portfolio of fixed income securities; (2) issued in return for a deposit of a specified portfolio of fixed income securities and/or cash; and (3) redeemed at a holder's request by the investment company, which will pay the redeeming holder fixed income securities and/or cash.

Upon approval of the proposed amendments to CHX Article XXVIII, Rule 24, the Exchange proposes to trade on a UTP basis the following seven series of the iShares Trust, a registered open-end management investment company (the ''Trust''): iShares 1–3 Year Treasury Index Fund, iShares 7–10 Year Treasury Index Fund, iShares 20+ Year Treasury Index Fund, iShares Treasury Index Fund; iShares Government/Credit Index Fund, iShares Lehman Corporate Bond Fund, and iShares Goldman Sachs Corporate Bond Fund (each, a ''Fund,'' and jointly, the ''Funds'').

Each Fund will hold certain fixed income securities selected to correspond generally to the price and yield performance of a specified U.S. Treasury, Government/Credit, or Corporate Bond Index (each, an ''Underlying Index'') maintained either by Lehman Brothers, or, for the Goldman Sachs Corporate Bond Fund, by Goldman Sachs & Co.

Barclays Global Fund Advisors (''Advisor'') is the investment advisor for each Fund. The Advisor is registered under the Investment Advisers Act of 1940. The Advisor is a wholly owned subsidiary of Barclays Global Investors, N.A., which is in turn a wholly owned indirect subsidiary of Barclays Bank PLC of the United Kingdom. SEI Investments Distribution Co. (''Distributor''), a Pennsylvania corporation and broker-dealer registered under the Exchange Act, is the principal underwriter and distributor of Creation Unit Aggregations (as defined below) of iShares. The Distributor is not affiliated with the Exchange or the Advisor.

A. Operation of the Funds

Each Fund is designed to provide investment results that correspond generally to the price and yield performance of its Underlying Index. In seeking to achieve its respective investment objective, each Fund will utilize ''passive'' indexing investment strategies. Each Fund may fully replicate its Underlying Index, but currently intends to use a ''representative sampling'' strategy to track its Underlying Index. A Fund utilizing a representative sampling strategy generally will hold a basket of the component securities (''Component Securities'') of its Underlying Index, but it may not hold all of the Component Securities of its Underlying Index (as compared to a Fund that uses a replication strategy which invests in substantially all of the Component Securities in its Underlying Index in the same approximate proportions as in the Underlying Index).[6]

When using a representative sampling strategy, the Advisor attempts to match the risk and return characteristics of a Fund's portfolio to the risk and return characteristics of the Underlying Index. As part of this process, the Advisor subdivides each Underlying Index into

[4] Investment Company Units based on a fixed income securities index are not eligible for listing or trading under the Exchange's generic listing criteria (CHX Article XXVIII, Rule 24, Interpretation and Policy .04). The Exchange understands that it must make separate rule filings for any additional series of such Investment Company Units based on fixed income indices prior to listing or trading those products, even if the Exchange is only trading the product on a UTP basis.

[5] *See* Securities Exchange Act Release No. 46252 (July 24, 2002), 67 FR 49715 (July 31, 2002) (SR–Amex–2001–35); and Securities Exchange Act Release No. 46299 (August 1, 2002), 67 FR 51907 (August 9, 2002) (SR–NYSE–2002–26).

[6] The Commission approved an ''Application'' by the Trust, the Advisor and the Distributor (''Applicants'') for an Order under Sections 6(c) and 17(b) of the 1940 Act for the purpose of exempting the Funds from various provisions of the 1940 Act. *See* Investment Company Act Release No. 25622 (June 24, 2002) (approving File No. 812–12390). The information provided in this Rule 19b–4 filing relating to the Funds is based on information included in the Application and order, as well as in the rule change proposals submitted by the NYSE and Amex.

smaller, more homogenous pieces. These subdivisions are sometimes referred to as ''cells.'' A cell will contain securities with similar characteristics. For fixed income indices, the Advisor generally divides the index according to the five parameters that determine a bond's risk and expected return: duration, sector, credit rating, coupon and the presence of embedded options. When completed, all bonds in the index will have been assigned a cell. The Advisor then begins to construct the portfolio by selecting representative bonds from these cells. The representative sample of bonds chosen from each cell is designed closely to correlate to the duration, sector, credit rating, coupon and embedded option characteristics of each cell. The characteristics of each cell when combined are, in turn, designed to closely correlate to the duration, sector, credit rating, coupon and embedded option characteristics of the Underlying Index as a whole. The Advisor may exclude less liquid bonds in order to create a more tradable portfolio and improve arbitrage opportunities.[7]

According to the Application, the representative sampling techniques used by the Advisor to manage fixed income funds do not materially differ from the representative sampling techniques it uses to manage equity funds. Due to the differences between bonds and equities, the Advisor analyzes different information, *e.g.*, coupon rates instead of dividend payments.

According to the Application, the Funds' use of the representative sampling strategy is beneficial for a number of reasons. First, the Advisor can avoid bonds that are ''expensive names'' (*i.e.*, bonds that trade at perceived higher prices or lower yields because they are in short supply) but have the same essential risk, value, duration and other characteristics as less expensive names. Second, the use of representative sampling techniques permits the Advisor to exclude bonds that it believes will soon be deleted from the Underlying Index. Third, the Advisor can avoid holding bonds it deems less liquid than other bonds with similar characteristics. Fourth, the Advisor can develop a basket that is easier to construct and cheaper to trade, thereby potentially improving arbitrage opportunities.

From time to time, adjustments may be made in the portfolio of each Fund in accordance with changes in the composition of the Underlying Index or to maintain compliance with requirements applicable to a regulated investment company (''RIC'') under the Internal Revenue Code. For example, if at the end of a calendar quarter a Fund would not comply with the RIC diversification tests, the Advisor would make adjustments to the portfolio to ensure continued RIC status. It should be noted, however, that Applicants do not anticipate that the Funds would need to make such adjustments, particularly since these Funds (other than the iShares Lehman Corporate Bond Fund and the iShares Goldman Sachs Corporate Bond Fund) invest a very large percentage of their assets in U.S. Treasury securities.

The Applicants noted in the Application that they expect that each Fund will have a tracking error relative to the performance of its respective Underlying Index of no more than five percent (5%). Each Fund's investment objectives, policies and investment strategies will be fully disclosed in its prospectus (''Prospectus'') and statement of additional information (''SAI''). At least 90% of each of the iShares 1–3 Year Treasury Index Fund, iShares 7–10 Year Treasury Index Fund, iShares 20+ Year Treasury Index Fund, iShares Treasury Index Fund, and iShares Government/Credit Index Fund's assets will be invested in Component Securities of its respective Underlying Index. Each of these Funds may also invest up to 10% of its assets in bonds not included in its Underlying Index, but which the Advisor believes will help the Fund track its Underlying Index, as well as in certain futures, options and swap contracts, cash and cash equivalents. For example, these Funds may invest in securities not included in the relevant Underlying Index in order to reflect prospective changes in the relevant Underlying Index (such as future corporate actions and index reconstitutions, additions and deletions). Each of the iShares Lehman Corporate Bond Fund and the iShares Goldman Sachs Corporate Bond Fund may at times invest up to 20% of its assets in certain futures, options and swap contracts, cash and cash equivalents as well as in bonds not included in its Underlying Index, but which the Advisor believes will help the Fund track its Underlying Index and which are either (i) included in the broader index upon which such Underlying Index is based (*i.e.*, the Lehman Credit Index for the Lehman Credit VLI Index or the Goldman Sachs Investment Grade Index for the Goldman Sachs InvesTop Index): or (ii) new issues entering or about to enter the Underlying Index or the broader index upon which such Underlying Index is based.

B. Issuance of Creation Unit Aggregations

1. *In General.* Shares of each Fund (the ''iShares'') will be issued on a continuous offering basis in groups of 50,000 or more. These ''groups'' of shares are called ''Creation Unit Aggregations.'' The Funds will issue and redeem iShares only in Creation Unit Aggregations.[8] As with other open-end investment companies, iShares will be issued at the net asset value (''NAV'') per share next determined after an order in proper form is received. The anticipated price at which the iShares will initially trade is approximately $100.

The NAV per share of each Fund is determined as the close of the regular trading session on the Exchange on each day that the Exchange is open. The Trust sells Creation Unit Aggregations of each Fund only on business days at the next determined NAV of each Fund. Creation Unit Aggregations will be issued by Each Fund in exchange for the in-kind deposit of portfolio securities designated by the Advisor to correspond generally to the price and yield performance of the Fund's Underlying Index (the ''Deposit Securities''). Purchasers will generally be required to deposit a specified cash payment in the manner more fully described in the Application. Creation Unit Aggregations will be redeemed by each fund in exchange for portfolio securities of the Fund (''Fund Securities'') and a specified cash payment in the manner more fully described herein. Fund Securities received on redemption may not be identical to Deposit Securities deposited in connection with creations of Creation Unit Aggregations for the same day. The Distributor will act on an agency basis and will be the Trust's principal underwriter for the iShares in

[7] As stated in the Application, the Goldman Sachs Index excludes bonds with embedded options. Although the Lehman Indices may include bonds with embedded options, the bonds in each Lehman Index (and the respective Deposit Securities and Fund Securities, as defined herein) should be liquid and easily tradable because each Lehman Index consists of U.S. Treasury and agency securities and/or liquid corporate and non-corporate bonds. To the extend a particular bond is less liquid than another bond with similar characteristics, the Advisor's representative sampling techniques should permit the Advisor to replace the less liquid bond with a more liquid one. For these reasons, the Applicants do not believe the presence of bonds with embedded options in an Underlying Index, the Deposit Securities or Fund Securities would have any material impact on the creation/redemption process and the efficiency of the arbitrage mechanism for each Fund.

[8] Each Creation Unit Aggregation will consist of 50,000 or more iShares and the estimated initial value per Creation Unit Aggregation will be approximately $5 million.

Creation Unit Aggregations of each Fund. All orders to purchase iShares in Creation Unit Aggregations must be placed with the Distributor by or through an authorized participant (''Authorized Participant''). Authorized Participants, which are required to be Depository Trust Company (''DTC'') participants, must enter into a participant agreement with the Distributor. The Distributor will transmit such orders to the applicable Fund and furnish to those placing orders confirmation that the orders have been accepted. The Distributor may reject any order that is not submitted improper form. The Distributor will be responsible for delivering the prospectus to those persons creating iShares in Creation Unit Aggregations and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the Trust to implement the delivery of iShares.

2. *In-Kind Deposit of Portfolio Securities.* Payment for Creation Unit Aggregations placed through the Distributor will be made by the purchasers generally by an in-kind deposit with the Fund of the Deposit Securities together with an amount of cash (the ''Balancing Amount'') specified by the Advisor in the manner described below. The Balancing Amount is an amount equal to the differences between (1) the NAV (per Creation Unit Aggregation) of the Fund and (2) the total aggregate market value (per Creation Unit Aggregation) of the Deposit Securities (such value referred to herein as the ''Deposit Amount''). The Balancing Amount serves the function of compensating for differences, if any, between the NAV per Creation Unit Aggregation and that of the Deposit Amount. The deposit of the requisite Deposit Securities and the Balancing Amount are collectively referred to herein as a ''Portfolio Deposit.'' The Advisor will make available to the market through the National Securities Clearing Corporation (the ''NSCC'') on each Business Day, prior to the opening of trading on the Exchange (currently 9:30 a.m. Eastern Time), the list of the names and the required number of shares of each Deposit Security included in the current Portfolio Deposit (based on the information at the end of the previous Business Day) for the relevant Fund. The Portfolio Deposit will be applicable to a Fund (subject to any adjustments to the Balancing Amount, as described below) in order to effect purchases of Creation Unit Aggregations of the Fund until such time as the next-announced Portfolio Deposit composition is made available.

The identity and number of shares of the Deposit Securities required for the Portfolio Deposit for each Fund will change from time to time. The composition of the Deposit Securities may change in response to adjustments to the weighting of composition of the Component Securities in the relevant Underlying Index. These adjustments will reflect changes, known to the Advisor to be in effect by the time of determination of the Deposit Securities, in the composition of the Underlying Index being tracked by the relevant Fund, or resulting from rebalance or additions or deletions to the relevant Underlying Index. In addition, the Trust reserves the right with respect to each Fund to permit or require the substitution of an amount of cash (*i.e.*, a ''cash in lieu'' amount) to be added to the Balancing Amount to replace any Deposit Security: (1) that may be unavailable or not available in sufficient quantity for delivery to the Trust upon the purchase of iShares in Creation Unit Aggregations, or (2) that may not be eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting.

C. Availability of Information Regarding iShares and Underlying Indices

1. *In General.* On each Business Day, the list of names and amount of each treasury security, government security or corporate bond constituting the current Deposit Securities of the Portfolio Deposit and the Balancing Amount effective as of the previous Business Day will be made available. An amount per iShare representing the sum of the estimated Balancing Amount effective through and including the previous Business Day, plus the current value of the Deposit Securities, on a per iShare basis (the ''Intra-day Optimized Portfolio Value'' or ''IOPV'') will be calculated by Bloomberg L.P. (''Bloomberg'') every 15 seconds during the Exchange's regular trading hours and disseminated every 15 seconds on the Consolidated Tape. Bloomberg will use Bloomberg Generic Prices (''BGN Prices'') to reflect changing bond prices and update the IOPV throughout the day. BGN Prices are current prices on individual bonds as determined by Bloomberg using an automated pricing program that analyzes multiple bond prices contributed to Bloomberg by third-party price contributors (such as broker-dealers). BGN Prices are updated throughout the day based on an ongoing analysis of the bid/ask prices submitted by the third-party price contributors. When Bloomberg receives bid/ask prices from a price contributor, the prices are filtered and screened according to pre-determined criteria and set parameters in order to maximize the accuracy of the pricing data. The net result of this process is an individual bond ''price'' based on an analysis of multiple pricing sources. BGN Prices are available on Bloomberg systems and Applicants expect that the pricing of the Deposit Securities will be transparent to anyone with access to Bloomberg systems.

The Lehman Indices and the Goldman Sachs Index will not be calculated or disseminated intra-day. The value and return of each Lehman Index is updated on a daily basis by Lehman Brothers. The value and return of the Goldman Sachs Index is updated on a daily basis by Goldman Sachs.

Each Fund will make available through NSCC on a daily basis the names and required number of shares of each of the Deposit Securities in a Creation Unit Aggregation, as well as information regarding the Balancing Amount. The NAV for each Fund will be calculated and disseminated daily. There will also be disseminated a variety of data with respect to each Fund on a daily basis by means of CTA and CQ High speed Lines; information with respect to recent NAV, shares outstanding, estimated cash amount and total cash amount per Creation Unit Aggregation will be made available prior to the opening of the Exchange. The closing prices of the Funds' Deposit Securities are readily available from published or other public sources, or on-line information services provided by Merrill Lynch, IDC, Bridge, Bloomberg, Lehman Brothers and other pricing services commonly used by bond mutual funds. In addition, the website for the Trust, which will be publicly accessible at no charge, will contain the following information, on a per iShare basis, for each Fund: (a) The prior Business Day's NAV and the mid-point of the bid-ask price [9] at the time of calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

2. *Information Regarding the Underlying Debt Securities.* The

[9] The Bid-Ask Price of a Fund is determined using the highest bid and lowest offer on the Exchange as of the time of calculation of each Fund's NAV.

secondary market for Treasury securities is a highly organized over-the-counter market. Many dealers, and particularly the primary dealers, make markets in Treasury securities. Trading activity takes place between primary dealers, non-primary dealers, and customers of these dealers, including financial institutions, non-financial institutions and individuals. Increasingly, trading in Treasury securities occurs through automated trading systems.[10]

The primary dealers are among the most active participants in the secondary market for Treasury securities. The primary dealers and other large market participants frequently trade with each other, and most of these transactions occur through an interdealer broker.[11] The interdealer brokers provide primary dealers and other large participants in the Treasury market with electronic screens that display the bid and offer prices among dealers and allow trades to be consummated.

Quote and trade information regarding Treasury securities is widely available to market participants from a variety of sources. The electronic trade and quote systems of the dealers and interdealer brokers are one such source. Groups of dealers and interdealer brokers also furnish trade and quote information to vendors such as Bloomberg, Reuters, Bridge, Moneyline Telerate, and CQG. GovPX,[12] for example, is a consortium of leading government securities dealers and subscribers that provides market data from leading government securities dealers and interdealer brokers to market data vendors and subscribers. TradeWeb, another example, is a consortium of 18 primary dealers that, in addition to providing a trading platform, also provides market data direct to subscribers or to other market data vendors.[13]

Real-time price quotes for corporate and non-corporate debt securities are available to institutional investors via proprietary systems such as Bloomberg, Reuters and Dow Jones Telerate. Additional analytical data and pricing information may also be obtained through vendors such as Bridge Information Systems, Muller Data, Capital Management Sciences, Interactive Data Corporation and Barra.

Retail investors do have access to free intra-day bellwether quotes.[14] The Bond Market Association provides links to price and other bond information sources on its investor Web site at *http://www.investinginbonds.com.* In addition, transaction prices and volume data for the most actively-traded bonds on the exchanges are published daily in newspapers and on a variety of financial websites.

Closing corporate and non-corporate bond prices are also available through subscription services (*e.g.*, IDC, Bridge) that provide aggregate pricing information based on prices from several dealers, as well as subscription services from broker-dealers with a large bond trading operation, such as Lehman Brothers and Goldman, Sachs & Co.

D. Redemption of iShares

Creation Unit Aggregations of each Fund will be redeemable at the NAV next determined after receipt of a request for redemption. Creation Unit Aggregations of each fund will be redeemed principally in-kind, together with a balancing cash payment (although, as described below, Creation Unit Aggregations may sometimes be redeemed for cash). The value of each Fund's redemption payments on a Creation Unit Aggregation basis will equal the NAV per the appropriate number of iShares of such Fund. Owners of iShares may sell their iShares in the secondary market, but must accumulate enough iShares to constitute a Creation Unit Aggregation in order to redeem through the Fund. Redemption orders must be placed or through an Authorized Participant.

Creation Unit Aggregations of any Fund generally will be redeemable on any Business Day in exchange for Fund Securities and the Cash Redemption Payment (defined below) in effect on the date a request for redemption is made. The Advisor will publish daily through NSCC the list of securities which a creator of Creation Unit Aggregations must deliver to the Fund (the ''Creation List'') and which a redeemer will receive from the Fund (the ''Redemption List''). The Creation List is identical to the list of the names and the required numbers of shares of each Deposit Security included in the current Portfolio Deposit.

In addition, just as the Balancing Amount is delivered by the purchaser of Creation Unit Aggregations to the Fund, the Trust will also deliver to the redeeming Beneficial Owner in cash the ''Cash Redemption Payment.'' The Cash Redemption Payment on any given Business Day will be an amount calculated in the same manner as that for the Balancing Amount, although the actual amounts may differ in the Fund Securities received upon redemption are not identical to the Deposit Securities applicable for creations on the same day. To the extent that the Fund Securities have a value greater than the NAV of iShares being redeemed, a cash payment equal to the differential is required to be paid by the redeeming Beneficial Owner to the Fund. The Trust may also make redemptions in cash in lieu of transferring one or more Fund Securities to a redeemer if the Trust determines, in its discretion, that such method is warranted due to unusual circumstances. An unusual circumstance could arise, for example, when a redeeming entity is restrained by regulation or policy from transacting in certain Fund Securities, such as the presence of such Fund Securities, on a redeeming investment banking firm's restricted list.

E. Clearance and Settlement

The Deposit Securities and Fund Securities of each Fund will settle via free delivery through the Federal Reserve System for U.S. government securities and the DTC for corporate securities and non-corporate (other than U.S. government securities). The iShares will settle through the DTC. The Custodian will monitor the movement of the Deposit Securities and will instruct the movement of the iShares only upon validation that the Deposit Securities have settled correctly or that required collateral is in place.

As with the settlement of domestic ETF transactions outside of the NSCC Continuous Net Settlement System (the ''CNS System''), (i) iShares of the Funds and corporate and non-corporate securities (other than U.S. government securities) will clear and settle through DTC, and (ii) U.S. government securities and cash will clear and settle through the Federal Reserve system. More specifically, creation transactions will settle as follows. On settlement date (T + 3), an Authorized Participant will transfer Deposit Securities that are corporate and non-corporate bonds (other than U.S. government securities) through DTC to a DTC account maintained by the Funds' Custodian, and Deposit Securities that are U.S. government securities, together with any Balancing Amount, to the Custodian through the Federal Reserve system. Once the Custodian has verified the

[10] *See* ''eCommerce in the Fixed-Income Markets: The 2001 Review of Electronic Transaction Systems,'' December 2001. This survey of electronic trading systems in the bond market was prepared by the staff of The Bond Market Association and is available through the Association's Web site: *http://www.bondmarkets.com.*

[11] *E.g.,* BrokerTec Global, Cantor Fitzgerald, Garban-Intercapital, and Liberty Brokerage.

[12] *See http://www.govpx.com.*

[13] *See http://www.tradeweb.com.*

[14] Corporate prices are available at 20 minute intervals from Capital Management Services at http://www.bondvu.com/quotmenu.htm.

receipt of all the Deposit Securities (or in the case of failed delivery of one or more bonds, collateral in the amount of 105% or more of the missing Deposit Securities) and the receipt of any Balancing Amount, the Custodian will notify the Distributor and the Advisor. The Fund will issue Creation Unit Aggregations of iShares and the Custodian will deliver the iShares to the Authorized Participant through DTC. DTC will then credit the Authorized Participant's DTC account. The clearance and settlement of redemption transactions essentially reverses the process described above. After the Trust has received a redemption request in proper form and the Authorized Participant transfers Creation Unit Aggregations of iShares to the Funds' Custodian through DTC, the Trust will cause the Custodian to initiate procedures to transfer the requisite Fund Securities and any Cash Redemption Payment. On T + 3, assuming the Custodian has verified receipt of the Creation Unit Aggregations, the Custodian will transfer Fund Securities that are corporate and non-corporate bonds to the Authorized Participant through DTC and Fund Securities that are U.S. government securities, together with any Cash Redemption Payment, through the Federal Reserve system.

iShares of the Funds will be debited or credited by the Custodian directly to the DTC accounts of the Authorized Participants. With respect to domestic equity-based ETFs using the CNS System, Creation Unit Aggregations of iShares are deposited or charged to the Authorized Participants' DTC accounts through the CNS System. Since creation/redemption transactions for iShares of the Funds will not clear and settle through the CNS System, the failed delivery of one or more Deposit Securities (on a create) or one or more Fund Securities (on a redemption) will not be facilitated by the CNX System. Therefore, Authorized Participants will be required to provide collateral to cover the failed delivery of Deposit Securities in connection with an ''in-kind'' creation of iShares. In case of a failed delivery of one or more Deposit Securities, the Funds will hold the collateral until the delivery of such Deposit Security. The Funds will be protected from failure to receive the Deposit Securities because the Custodian will not effect the Fund's side of the transaction (the issuance of iShares) until the Custodian has received confirmation of receipt of the Authorized Participant's incoming Deposit Securities (or collateral for failed Deposit Securities) and Balancing Amount. In the case of redemption transactions, the Funds will be protected from failure to receive Creation Unit Aggregations of iShares because the Custodian will not now effect the Fund's side of the transaction (the delivery of Fund Securities and the Cash Redemption Payment) until the Transfer Agent has received confirmation of receipt of the Authorized Participant's incoming Creation Unit Aggregations. In order to simplify the transfer agency process and align the settlement of iShares of the Funds with the settlement of the Deposit Securities and Fund Securities, Applicants plan to settle transactions in U.S. government securities, corporate bonds, non-corporate bonds (other than U.S. government securities) and iShares on the same T + 3 settlement cycle.

The issuer does not believe that the clearing and settlement process will affect the arbitrage of iShares of the Funds.

F. Dividends and Distributions

Dividends from net investment income will be declared and paid to Beneficial Owners of record at least annually by each Fund. Certain of the Funds may pay dividends, if any, on a quarterly or more frequent basis. Distributions of realized securities gains, if any, generally will be declared and paid once a year, but each Fund may make distributions on a more frequent basis to comply with the distribution requirements of the Internal Revenue Code and consistent with the 1940 Act.

Dividends and other distributions on iShares of each Fund will be distributed on a pro rata basis to Beneficial Owners of such iShares. Dividend payments will be made through the Depository and the DTC Participants to Beneficial Owners then of record with amount received from each Fund.

The Trust will not make the DTC book-entry Dividend Reinvestment Service (the ''Service'') available for use by Beneficial Owners for reinvestment of their cash proceeds, but certain individual brokers may make the Service available to their clients. The SAI will inform investors of this fact and direct interested investors to contact such investor's broker to ascertain the availability and a description of the Service through such broker. The SAI will also caution interested Beneficial Owners that they should note that each broker may require investors to adhere to specific procedures and timetables in order to participate in the Service and such investors should ascertain from their broker such necessary details. iShares acquired pursuant to the Service will be held by the Beneficial Owners in the same manner, and subject to the same terms and conditions, as for original ownership of iShares.

G. Other Issues

1. *Criteria for Initial and Continued Listing.* iShares are subject to the criteria for initial and continued listing of Investment Company Units in CHX Article XXVIII, Rule 24. It is anticipated that a minimum of two Creation Units (100,000 iShares) will be required to be outstanding at the start of trading. This minimum number of iShares required to be outstanding at the start of trading will be comparable to requirements that have been applied to previously traded series of Investment Company Units.

The Exchange believes that the proposed minimum number of iShares outstanding at the start of trading is sufficient to provide market liquidity and to further the Trust's objective to seek to provide investment results that correspond generally to the price and yield performance of the Index.

2. *Original and Annual Listing Fees.* If the Funds were to list on the Exchange, they would be subject to the listing fees set out in the Exchange's Schedule of Membership Dues and Fees.

3. *Prospectus Delivery.* The Exchange, in an Information Circular to Exchange members and member organizations, will inform members and member organizations, prior to commencement of trading, of the prospectus or product description delivery requirements applicable to iShares.

4. *Trading Halts.* Any decision to halt trading of fixed income ETFs is subject to CHX Article IX, Rule 10A and CHX Article IX, Rule 10(b). In exercising the discretion described in CHX Article IX, Rule 10(b), appropriate Exchange officials may consider a variety of factors, including the extent to which trading is not occurring in underlying security(s); whether trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the applicable current portfolio value; and whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

5. *Suitability.* The Information Circular distributed by the Exchange to its members will remind members of their obligations pursuant to CHX Article VIII, Rule 25 (Business Conduct).

6. *Purchases and Redemptions in Creation Unit Size.* In the Information Circular referenced above, members and member organizations will be informed

that procedures for purchases and redemptions of iShares in Creation Unit Size are described in the Fund prospectus and Statement of Additional Information, and that iShares are not individually redeemable, but may redeemed only in Creation Unit Size aggregations or multiples thereof.[15]

7. *Surveillance.* Exchange surveillance procedures applicable to trading in the proposed iShares are comparable to those applicable to other Investment Company Units currently trading on the Exchange. The Exchange believes that these surveillance efforts will be adequate to properly monitor the trading of the Funds.

8. *Hours of Trading/Minimum Price Variation.* The Funds will trade on the Exchange until 4:15 p.m. (Eastern time), or, if the Exchange is trading the Funds pursuant to unlisted trading privileges, during the same hours that they are traded on the primary market. *See* CHX Article IX, Rule 10(b). The minimum price variation for quoting will be $.01.

2. Statutory Basis

The Exchange believes that the proposed rule is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[16] In particular, the proposed rule is consistent with Section 6(b)(5) of the Exchange Act[17] in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. 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 Exchange Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–2002–27 and should be submitted by December 12, 2002.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful review, the Commission finds that implementation of the proposed rule change, as amended, is consistent with the requirements of Section 6 of the Exchange Act[18] and the rules and regulations thereunder applicable to a national securities exchange.[19] Specifically, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Exchange Act.[20] The Commission believes that the Exchange's proposal to list and trade fixed income ETFs (including the trading thereof on a UTP basis)[21] will provide investors with a convenient way of participating in the U.S. government, corporate and non-corporate (other than U.S. government) fixed income markets. The Exchange's proposal should help to provide investors with increased flexibility in satisfying their investment needs by allowing them to purchase and sell securities at negotiated prices throughout the business day that replicate the performance of several portfolios of stocks. The Commission believes that the availability of the Funds will provide an instrument for investors to achieve desired investment results that correspond generally to the price and yield performance of the underlying U.S. Treasury, Government/Credit, or Corporate Bond Index. The investment objective of each Fund will be to provide investment results that correspond generally to the price and yield performance of the underlying index based on fixed income securities. Accordingly, the Commission finds that the Exchange's proposal will facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[22]

iShares Trust and iShares, Inc. are each registered in the 1940 Act as an open-ended management investment company with multiple series. iShares Trust has created (or identified for creation) 66 separate series, while iShares, Inc. has created (or identified for creation) 35 separate series. All of these series operate (or will operate) as ETFs pursuant to six prior exemptive orders from the 1940 Act, and each of the ETFs seeks to match the return of an equity securities index. Additionally, the Commission has granted the Funds appropriate relief under various sections of the 1940 Act, including sections 6(c) and 17(b), so that each Fund may register under the 1940 Act as an open-end fund and issue shares that are redeemable in Creation Units, shares of Funds may trade in the secondary market at negotiated prices, and certain persons affiliated with a Fund by reason of owning 5% or more, and in some

[15] Other exchanges that have sought permission to list and/or trade the Funds have noted, in their filings, that their rules that prohibit certain types of relationships between an issuer and the specialist in the issuer's securities do not prohibit specialists from certain transactions in the Funds. *See* Release No. 46299 (August 1, 2002), 67 FR 51907 (August 9, 2002) (NYSE's Rule 460.10); and Release No. 46252 (July 24, 2002), 67 FR 49715 (July 31, 2002) (Amex's Rule 190). The Exchange has a similar rule that prohibits certain relationships between its specialists and the issuer of a security, but it applies only to issues that are exclusively listed on the Exchange; therefore, this rule does not prohibit CHX specialists from certain transactions in the Funds. *See* CHX Article XXX, Rule 23.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f.

[19] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[20] 15 U.S.C. 78f(b)(5).

[21] The Commission notes that, pursuant to Rule 12f–5 under the Act, prior to trading a particular class or type of security pursuant to UTP, NYSE must have listing standards comparable to those of the primary market on which the security is listed. 17 CFR 240.12f–5. The Commission finds that adequate rules and procedures exist to govern the trading of the Fund on NYSE, pursuant to UTP.

[22] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of exchange trading for new products upon a finding that the introduction of the product is in the public interest. Such a finding would be difficult with respect to a product that served no investment, hedging or other economic functions, because any benefits that might be derived by market participants would likely be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

cases more than 25%, of its outstanding securities may do in-kind purchases and redemptions of Creation Units.[23]

Barclays is registered as an investment adviser under the 1940 Act and serves as the investment adviser to the series of iShares Trust and iShares, Inc. Distributor acts as the principal underwriter and distributor for iShares Trust and iShares, Inc.

iShares Trust will create seven new series each of which operates as an ETF seeking to match the performance of a fixed income securities index. The seven indices are the following:

- Lehman Brothers 1–3 Year U.S. Treasury Index (containing U.S. Treasury securities with remaining maturities of between 1 and 3 years);
- Lehman Brothers 7–10 Year U.S. Treasury Index (containing U.S. Treasury securities with remaining maturities of between 7 and 10 years);
- Lehman 20+ Year U.S. Treasury Index (containing U.S. Treasury securities with remaining maturities of more than 20 years);
- Lehman U.S. Treasury Index (containing U.S. Treasury securities with remaining maturities of more than 1 year);
- Lehman Government/Credit Index (containing certain investment grade government and credit securities with maturities of more than 1 year);
- Lehman Credit VLI Index (containing the largest issues of investment grade credit securities with remaining maturities of more than 1 year); and
- Goldman Sachs InvesTop Index (containing the 100 most liquid and representative bonds in the U.S. investment grade corporate market with remaining maturities of at least 3 years).[24]

The Commission notes that this is the first ETF based on an underlying index of fixed income securities (''Fixed Income ETFs''). The Funds will operate in substantially the same manner as Equity ETFs. Like many other ETFs, each Fund will use a representative sampling strategy to track its index. With a sampling strategy, a Fund will seek to match the return of its index by holding some, but not all, of the fixed income securities contained in its underlying index. In constructing the portfolio for a Fund, Barclays will select a sample of bonds that will correlate to the duration, sector, credit rating, coupon, and embedded option characteristics of the underlying index as a whole. Barclays may also exclude less liquid bonds in order to create a more tradable portfolio to enhance arbitrage efficiency. As with its Equity ETFs, Barclays represents that the Funds will have a tracking error relative to the performance of their respective underlying indices of no more than 5%.

Shares of the Funds will be issued and redeemed in Creation Units priced at NAV in exchange for Portfolio Deposits and Redemption Baskets consisting of Bonds selected and announced by Barclays at the beginning of each business day.

The Commission finds that the Funds will provide benefits to investors in allowing investors to trade baskets of bonds in a single transaction at a cost comparable to that of trading existing equity securities and will allow investors to trade baskets of bonds throughout the day and thereby permit them to take advantage of (or protect themselves against) intra-day market movements. The Funds may make it easier for individual investors to diversify their portfolios across a broader range of assets and will provide institutional and other large investors with an alternative to futures for various hedging and other investment strategies that involve fixed income securities. Finally, the Funds will provide investors with a fund product that discloses its portfolio on a daily basis rather than semi-annually.

While the Funds will be operated in a manner that closely parallels the manner in which Equity ETFs are operated, one key potential difference may be the efficiency of the arbitrage process. The arbitrage mechanism for Equity ETFs generally has caused the market price of ETF shares to track closely the NAV of the ETF shares. With respect to liquidity of the debt securities likely to be in the ETF portfolios, to the extent these debt securities could not be readily purchased and sold, the arbitrage process would be less efficient. However, the Commission notes that the Funds will invest in some of the most liquid debt securities, including U.S. Government securities and investment grade corporate and non-corporate bonds.[25] In addition, Barclays will employ a sampling method of portfolio management that would allow the Funds to exclude any bonds contained in an underlying index that may not have sufficient liquidity for easy trading. As a result, the Commission believes that the Funds have addressed the liquidity issues that might hamper arbitrage.

In addition, differences in the degree of price transparency in the debt and equity markets could lead to larger discounts and premiums for the Funds than have been experienced by Equity ETFs. Specifically, because the pricing of debt securities can be less transparent than the pricing of equity securities, arbitrageurs might account for pricing uncertainty by waiting for greater premiums or discounts to develop in the market price of the ETF shares before engaging in arbitrage transactions.

The Commission finds that because of the nature of the particular debt securities to be included in the portfolios of the Funds (*i.e.*, U.S. Government securities and investment grade corporate and non-corporate bonds), the pricing information should be available. The Exchange has indicated that real-time price quotes for corporate and non-corporate debt securities are available to institutional investors via proprietary systems such as Bloomberg, Reuters and Dow Jones Telerate. Additional analytical data and pricing information may also be obtained through vendors such as Bridge Information Systems, Muller Data, Capital Management Sciences, Interactive Data Corporation and Barra.

The Exchange has also represented that retail investors would have access to free intra-day bellwether quotes.[26] For instance, the Bond Market Association provides links to price and other bond information sources on its investor Web site at *http://www.investinginbonds.com.* In addition, transaction prices and volume data for the most actively-traded bonds on the exchanges are published daily in newspapers and on a variety of financial websites. Closing corporate and non-corporate bond prices are also available through subscription services (*e.g.*, IDC, Bridge) that provide aggregate pricing

[23] Investment Company Act Release No. 25622 (June 25, 2002).

[24] As of July 1, 2002, the composition of the Goldman Sachs Index, which underlies the iShares Goldman Sachs Corporate Bond Fund, was expanded from 30 to 100 investment grade bonds, and the index is permitted to include more than one bond per issuer.

[25] The Lehman Government/Credit Index, Lehman Credit VLI Index, and Goldman Sachs InvesTop Index may include investment grade corporate and non-corporate bonds issued by non-U.S. issuers (sovereign, supra-national, foreign agency, and foreign local government). In Barclays' 1940 Act Application, it stated that these bonds will be dollar denominated, registered for sale in the U.S., and traded on U.S. markets at negotiated and readily available prices. Barclays does not believe that these bonds present any unique pricing or liquidity issues and does not expect the bonds to negatively affect arbitrage efficiency. The Commission notes that if any of these major characteristics of these fixed income indices (*e.g.,* investment grade, face amount issued, maturity classification) were to materially change, the Commission would expect NYSE to attend these listing standards accordingly.

[26] Corporate prices are available at 20 minute intervals from Capital Management Services at *http://www.bondvu.com/quotmenu.htm.*

information based on prices from several dealers, as well as subscription services from broker-dealers with a large bond trading operation, such as Lehman Brothers and Goldman Sachs & Co.

The Commission also believes that pricing information for the Treasury securities should also be available. Quote and trade information regarding Treasury securities is widely available to market participants from a variety of sources. The electronic trade and quote systems of the dealers and interdealer brokers are one such source. Groups of dealers and interdealer brokers also furnish trade and quote information to vendors such as Bloomberg, Reuters, Bridge, Moneyline Telerate, and CQG.

CHX represents that every 15 seconds a price calculated by Bloomberg reflecting the current value of the Portfolio Deposit on a per ETF share basis for the Funds will be disseminated. To calculate this intra-day value, Bloomberg intends to use Bloomberg Generic Prices, which are current prices for individual bonds as determined by Bloomberg using an automated pricing program that analyzed multiple bond prices contributed by third-part price contributors such as broker-dealers.[27] Accordingly, NYSE believes that the pricing of the bonds included in the Portfolio Deposit (and in the Redemption Basket) will be transparent to anyone with access to Bloomberg systems. Because the arbitrageurs of ETF shares are generally large institutional investors, including broker-dealers, the Commission believes that these investors likely will have access to Bloomberg systems, as well as other bond pricing information sources that should permit efficient arbitrage to occur. While the Commission believes that differences in the liquidity and pricing transparency of the underlying fixed income markets, as compared to the equity markets, may result in the Funds trading at slightly higher discounts and premiums, the Commission does not believe that this effect is likely to be so substantial as to undermine the benefits that Funds will provide to the markets and to investors. The Commission expects the Exchange to review the discounts or premiums for these products and to respond appropriately if there is in fact a significant pricing disparity.

The Commission has also granted the issuer, Barclays, exemptive relief from Section 24(d) of the 1940 Act so that dealers may effect secondary market transaction in Barclays ETF shares without delivery a prospectus to the purchaser. Instead, under the exemption and under CHX's listing standards, sales in the secondary market must be accompanied by a ''product description,'' describing the ETF and its shares.[28] The Commission believes a product description, which not only highlights the basic characteristics of the product and the manner in which the ETF shares trade in the secondary market, but also highlights the differences of the Funds from existing equity ETFs and notes the unique characteristics and risks of this product, should provide market participants with adequate notice of the salient features of the product.

The Commission also notes that upon the initial listing of any ETF under CHX Article XXVIII, Rule 24 the Exchange issues a circular to its members explaining the unique characteristics and risks of the security; in this instance, Fixed Income ETFs. In particular, the circular should include, among other things, a discussion of the risks that may be associated with the Funds, in addition to details on the composition of the fixed income indices upon which they are based and how each Fund would use a representative sampling strategy to track its index. The circular also should note Exchange members' responsibilities under CHX Article VIII, Rule 25 (''know your customer rule'') regarding transactions in such Fixed Income ETFs. CHX Article VIII, Rule 25 generally requires that members use due diligence to learn the essential facts relative to every customer, every order or account accepted. The circular also will address members' prospectus delivery requirements as well as highlight the characteristics of purchases in Funds, including that they only are redeemable in Creation Unit size aggregations. Based on these factors, the Commission finds that the proposal to trade the Funds is consistent with Section 6(b)(5) of the Exchange Act.[29]

The Commission also notes that the Exchange's rules and procedures should address the special concerns attendant to the trading of new derivative products. In particular, by imposing the Investment Company Unit listing standards in CHX Article XXVIII, Rule 24, and addressing the suitability, disclosure, and compliance requirements noted above, the Commission believes that the Exchange has addressed adequately the potential problems that could arise from the derivative nature of the Funds.

In particular, the Commission finds that adequate rules and procedures exist to govern the trading of Investment Company Units, including Funds. Funds will be deemed equity securities subject to CHX rules governing the trading of equity securities. These rules include general and floor rules, such as priority, parity, and precedence of orders, market volatility related trading halt provisions, members dealing for their own accounts, specialists, odd-lot brokers, and market makers, and handling of orders and reports; office rules, such as conduct of accounts, margin rules, and advertising; and contract rules, such as duty to report transactions, comparisons of transactions, marking to the market, delivery of securities, dividends and interest, closing of contracts, and money and security loans.[30] CHX also will consider halting trading in any series of Investment Company Units under certain other circumstances such as the presence of other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market.[31] The Commission believes that the application of these rules should strengthen the integrity of the Funds.

The Commission also notes that certain concerns are raised when a broker-dealer, such as Lehman or Goldman, is involved in the development and maintenance of a stock index upon which an ETF is based. Previously, the Commission noted the importance of an exchange adopting adequate procedures to prevent the misuse of material, non-public information regarding changes to component stocks in a fixed income securities index.[32] Goldman and Lehman each have procedures in place to prevent the misuse of material, non-public information regarding changes to component stocks to the Funds. [33] The

[27] The Lehman Indices and the Goldman Sachs Index will not be calculated or disseminated intra-day. The value and return of each Lehman Index is updated on a daily basis by Lehman Brothers. The value and return of the Goldman Sachs Index is updated on a daily basis by Goldman Sachs.

[28] Recently approved Nasdaq listing standards for ETFs clarify that NASD members trading equity ETFs through electronic communication networks (''ECNs'') would be subject to NASD Rules 4420(i)(2) and 4420(j)(2) requiring the delivery of product descriptions in connection with sales of ETF shares. *See* Securities Exchange Act Release No. 45920 (May 13, 2002), 67 FR 35605 (May 20, 2002). The Commission expects NASD members to observe the same standards for the secondary market trading of Funds.

[29] 15 U.S.C. 78f(b)(f).

[30] Telephone conversation between Ellen J. Neely, Senior Vice President and General Counsel, CHX; and Jennifer Lewis, Division, Commission, on November 7, 2002.

[31] *Id.*

[32] *See* supra, note 4.

[33] The Commission expects that the procedures implemented by Goldman and Lehman will monitor and prevent the misuse of material, non-

Commission believes that these provisions should help to address concerns raised by Goldman and Lehman's involvement in the management of the indices.

The Commission also believes that CHX has appropriate surveillance procedures in place to detect and deter potential manipulation for similar index-linked products. By applying these procedures to the Funds, the Commission believes that the potential for manipulation should be minimized, while protecting investors and the public interest.

CHX has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. CHX has requested accelerated approval because the 1940 Act Application relating to the Funds has been reviewed by the Division of Investment Management and notice of the Application has been published in the **Federal Register**.[34] The Application disclosed the characteristics and risks associated with the Funds. No comments were submitted and the Commission granted the relief requested in the Application.[35] The Funds will trade on the Exchange in the same manner as Investment Company Units previously approved by the Commission. Furthermore, the Commission notes that it recently granted accelerated approval to the requests of the Amex and NYSE to list and trade fixed income ETFs.[36] Based on the above, the Commission finds good cause to accelerate approval of the proposed rule change.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[37] that the proposed rule change (File No. SR–CHX–2002–27), as amended, is hereby approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[38]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–29541 Filed 11–20–02; 8:45 am]

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public information as it relates to the development, maintenance and calculation of the indices.

[34] Investment Company Act Release No. 25594 (May 29, 2002), 67 FR 38681 (June 5, 2002).

[35] Investment Company Act Release No. 25622 (June 25, 2002).

[36] *See supra,* note 5.

[37] 15 U.S.C. 78s(b)(2).

[38] 17 CFR 200.3–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3463)

State of Alabama

As a result of the President's major disaster declaration on November 14, 2002, I find that Barbour, Bibb, Blount, Calhoun, Cherokee, Cleburne, Cullman, Dale, DeKalb, Etowah, Fayette, Franklin, Greene, Hale, Henry, Houston, Jefferson, Lamar, Lawrence, Marion, Marshall, Morgan, Pickens, Shelby, St. Clair, Talladega, Tuscaloosa, Walker and Winston Counties in the State of Alabama constitute a disaster area due to damages caused by severe storms and tornadoes occurring on November 5 through November 12, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on January 13, 2003 and for economic injury until the close of business on August 14, 2003 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Bullock, Chilton, Clay, Coffee, Colbert, Coosa, Geneva, Jackson, Lauderdale, Limestone, Madison, Marengo, Perry, Pike, Randolph, Russell and Sumter in the State of Alabama ; Holmes and Jackson counties in the State of Florida; Carroll, Chattooga, Clay, Dade, Early, Floyd, Haralson, Polk, Quitman, Seminole, Stewart and Walker counties in the State of Georgia; Itawamba, Lowndes, Monroe, Noxubee and Tishomingo counties in the State of Mississippi.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.875
Homeowners without credit available elsewhere	2.937
Businesses with credit available elsewhere	6.648
Businesses and non-profit organizations without credit available elsewhere	3.324
Others (including non-profit organizations) with credit available elsewhere	5.500
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	3.324

The number assigned to this disaster for physical damage is 346312. For economic injury the number is 9S5500 for Alabama; 9S5600 for Florida; 9S5700 for Georgia; and 9S5800 for Mississippi.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 15, 2002.

S. George Camp,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 02–29648 Filed 11–20–02; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

Declaration of Disaster #3464, State of Mississippi

As a result of the President's major disaster declaration on November 14, 2002, I find that Clay, Lowndes, Monroe, Noxubee and Oktibbeha Counties in the State of Mississippi constitute a disaster area due to damages caused by severe storms and tornadoes occurring on November 10 through November 11, 2003. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on January 13, 2003, and for economic injury until the close of business on August 14, 2003, at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Chickasaw, Choctaw, Itawamba, Kemper, Lee, Webster and Winston in the State of Mississippi; Marion, Lamar, Pickens and Sumter counties in the State of Alabama.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.875
Homeowners without credit available elsewhere	2.937
Businesses with credit available elsewhere	6.648
Businesses and non-profit organizations without credit available elsewhere	3.324
Others (including non-profit organizations) with credit available elsewhere	5.500
For Economic Injury:	

	Percent
Businesses and small agricultural cooperatives without credit available elsewhere	3.324

The number assigned to this disaster for physical damage is 346412. For economic injury the number is 9S5900 for Mississippi; and 9S6000 for Alabama.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: November 15, 2002.

S. George Camp,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 02–29650 Filed 11–20–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3462]

State of Tennessee

As a result of the President's major disaster declaration on November 13, 2002, I find that Anderson, Bedford, Carroll, Coffee, Crockett, Cumberland, Gibson, Henderson, Madison, Marshall, Montgomery, Morgan, Rutherford, Scott, Sumner and Tipton Counties in the State of Tennessee constitute a disaster area due to damages caused by severe storms, tornadoes and flooding occurring on November 9 through November 12, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on January 13, 2003 and for economic injury until the close of business on August 13, 2003 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Benton, Bledsoe, Campbell, Cannon, Cheatham, Chester, Davidson, Decatur, Dickson, Dyer, Fayette, Fentress, Franklin, Giles, Grundy, Hardeman, Hardin, Haywood, Henry, Houston, Knox, Lauderdale, Lincoln, Loudon, Macon, Maury, Moore, Obion, Pickett, Putnam, Roane, Robertson, Rhea, Shelby, Stewart, Trousdale, Union, Van Buren, Warren, Weakley, White, Williamson and Wilson in the State of Tennessee; Crittenden and Mississippi counties in the State of Arkansas; Allen, Christian, McCreary, Simpson, Todd, Wayne and Whitley counties in the State of Kentucky.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.875
Homeowners without credit available elsewhere	2.937
Businesses with credit available elsewhere	6.648
Businesses and non-profit organizations without credit available elsewhere	3.324
Others (including non-profit organizations) with credit available elsewhere	5.500
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	3.324

The number assigned to this disaster for physical damage is 346212. For economic injury the number is 9S5200 for Tennessee; 9S5300 for Arkansas; and 9S5400 for Kentucky.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 15, 2002.

S. George Camp,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 02–29649 Filed 11–20–02; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection packages that may be included in this notice are for new information collections, revisions to OMB-approved information collections and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10235, 725 17th St., NW., Washington, DC 20503, Fax: 202–395–6974.

(SSA) Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1338 Annex Bldg., 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. *Internet Social Security Disability Report–Child—20 CFR 404.1512 and 416.912—0960–NEW.* SSA is developing an Internet Social Security Disability Report—Child. This Internet application, I3820, will collect information about a child who is applying for disabled child's benefits. It will solicit the details of the child's condition, how the condition affects the child's day-to-day life, and his or her medical treatment sources and/or other medical sources of evidence. Respondents will provide information on the disabled child by completing a series of screens on a personal computer. The information will then be transmitted to SSA electronically. However, until such time as SSA develops an acceptable electronic signature process and implements a Disability Determination Services (DDS) electronic disability process, applicants will also print, sign and mail a text formatted summary of the answers given on I3820. They will also print, sign and mail copies of the medical release form (SSA–827). The information collected on I3820 will be used by the State DDS's to develop medical evidence and to assess the alleged disability. The respondents will be applicants for child's disability benefits who opt to file via the Internet.

Type of Request: New information collection.

Number of Respondents: 52,300.

Frequency of Response: 1

Average Burden Per Response: 2 hours.

Estimated Annual Burden: 104,600 Hours.

2. *Work Activity Report—Employee—0960–0059.* Form SSA–821–BK collects information that determines whether individuals have worked in employment after becoming disabled and, if so, whether the work is substantial gainful activity. The data is reviewed and evaluated to determine if the recipient continues to meet the disability requirements of the law. The respondents are title II beneficiaries and title XVI recipients.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 300,000.

Frequency of Response: 1.

Average Burden Per Response: 45 minutes.

Estimated Annual Burden: 225,000 hours.

3. *Permanent Residence Under Color of Law—20 CFR 416.1615 and 416.1618–0960–0451.* Under Public Law (Pub. L.) 104–193, effective August 22, 1996, a noncitizen must be a ''qualified alien'' and meet certain additional requirements in order to be eligible for SSI. This law also established an exception to the new requirements for certain ''nonqualified aliens'' (*i.e.*, noncitizens who are not qualified aliens) who were receiving SSI on August 22, 1996. The exception allowed nonqualified aliens to remain on the rolls until September 30, 1997, at which time benefits would be suspended if the aliens had not acquired qualified alien status. Pub. L. 105–33 extended the suspension date to September 30, 1998 and Pub. L. 105–306, enacted October 28, 1998, provided that nonqualified aliens who are receiving SSI on August 22, 1996 would remain eligible after September 30, 1998 as long as other requirements were met (*e.g.*, income and resources, *etc.*). SSI eligibility for this group of aliens, ''grandfathered nonqualified aliens,'' will continue to be determined based on the rules governing alien eligibility in effect prior to August 22, 1996, *i.e.*, the PRUCOL standard. Under this standard, PRUCOL aliens must present evidence of their status to SSA at the time of application and periodically thereafter. SSA will verify the validity of the evidence of PRUCOL aliens with the Immigration and Naturalization Service. Based on the INS response, SSA will determine whether the individual is eligible for SSI payments. The respondents are alien applicants for and recipients of SSI payments.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 9,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 750 hours.

4. *Instructions for Completion of Federal Assistance Application—0960–0184.*

The information on Form SSA–96 will be used to assist the Commissioner in selecting grant proposals for funding based on their technical merits. The information will also assist in evaluating the soundness of the design of the proposed activities, the possibilities of obtaining productive results, the adequacy of resources to conduct the activities and the relationship to other similar activities that have been or are being conducted. The respondents are State and local Governments, State-designated protection and advocacy groups, colleges and universities and profit and nonprofit private organizations.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 200.

Frequency of Response: 8.

Average Burden Per Response: 14 hours.

Estimated Annual Burden: 22,400 hours.

5. *Certificate of Election for Reduced Spouse's Benefits—0960–0398.* SSA uses the information on the certificate of election, collected on form SSA–25, as the spouse's request for reduced benefits for the month of filing, and for months preceding the month of filing, as designated by the spouse (but not to exceed 12 months). The spouse must file a certificate of election with SSA to elect reduced benefits, if an entitled spouse (age 62–64) no longer has an entitled child in care. The respondents are individuals or households.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 1,000 hours.

6. *Annual Registration Statement Identifying Separated Participants with Deferred Benefits, Schedule SSA—0960–0606.* Schedule SSA is a form filed annually as part of a series of pension plan documents required by Section 6057 of the IRS Code. Administrators of pension benefit plans are required to report specific information on future plan benefits for those participants who left plan coverage during the year. SSA maintains the information until a claim for Social Security benefits has been approved. At that time, SSA notifies the beneficiary of his/her potential eligibility for payments from the private pension plan. The respondents are administrators of pension benefit plans or their service providers employed to prepare the Schedule SSA on behalf of the pension benefit plan. Below are the estimates of the cost and hour burdens for completing and filing Schedule SSA(s). We have used an average to estimate the hour burden. However, the burden may be greater or smaller depending on whether the respondent is a large or small pension benefit plan and how many Schedule SSA's are filed in a given year.

Type of request: Extension of an OMB-approved information collection.

Number of Respondents: 88,000.

Frequency of Response: Annually.

Average Burden Per Respondent: 2.5 hours.

Estimated Annual Burden: 220,000 hours.

Estimated Annual Cost Burden for All Respondents: $12,194,400.

7. *Internet Report of Continuing Disability Interview—20 CFR 404.1589 and 20 CFR 416.989—0960–NEW.*

Background

The Government Paperwork Elimination Act (GPEA) of 1998 directed federal agencies to develop electronic service delivery instruments as an alternative to traditional paper-based methods. As a result, the Social Security Administration is actively expanding its Internet services to enable citizens to complete the application process as well as to process their requests for post-entitlement transactions online. One of the initiatives in this process is the development of the Internet version of the current paper-based form entitled Report of Continuing Disability Interview, SSA–454–BK, which is used by the agency in the continuing disability review (CDR) process.

The Collection

SSA will use the Internet Report of Continuing Disability Interview (I454) to collect information from individuals receiving disability benefits or their representatives. The information collected will be used to determine whether a person who receives Social Security benefits and/or SSI, based on disability or blindness continues to be disabled. The report will update the record of the disabled individual, providing information on recent medical treatment, vocational and educational experiences, work activity and evaluations of the potential for return to work. On the basis of the responses, additional medical and other evidence is developed to assist SSA in determining whether their disability continues or has ended, and if so when

the disability ended. Respondents to I454 are disabled individuals scheduled for CDRs.

Type of request: New information collection.

Number of Respondents: 85,200.

Frequency of Response: 1 per respondent.

Average Burden Per Response: 120 minutes.

Estimated Annual Burden: 170,400 hours.

8. *Integrated Registration for Employers and Submitters (IRES)—0960–0626.*

The IRES authentication system is a free service designed to allow employers to access SSA's electronic wage reporting services, and to replace the use of a handwritten signature with an electronic signature. Employer representatives use an IRES generated PIN and password as their electronic signature. IRES was designed to be more efficient, reducing the costs to both employers and SSA, and will facilitate the filing of wage data electronically. SSA's paramount interest in the development of IRES was to ensure that the new electronic method of identifying wage report submitters provides the same security features as the current paper-based method. Security features include message integrity, originator authentication, non-repudiation and confidentiality. The PIN and password will be issued to an individual designated by the employer after SSA authenticates the company and contact information provided by the individual. SSA uses the IRES in conjunction with SSA's wage reporting processes. It is used as the gateway for electronic wage reporting and the online employee verification service. IRES will also be used when SSA implements additional electronic services such as electronic notices and error information, and to authenticate representatives of organizational representative payees in a limited Proof of Concept study. Also, the PIN will be used in the Annual Wage Reporting diskette process to replace the signature on IRS paper form 6559. SSA has received approval from IRS to use an alternative signature. Respondents to IRES will be Employers and Submitters who utilize SSA's electronic wage reporting and online employee verification services.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 250,040.

Number of Response: 1.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 8,335 hours.

9. *Report of New Information in Disability Cases—20 CFR 404.460, 404.468, 404.408 & 404.1588—0960–0071.* The information collected on Form SSA–612 is used to update the disability records of respondents, based on changes reported. The form is used to gather information on a number of topics that can affect the beneficiary's or the applicant's entitlement to disability benefits. This includes, but is not limited to, information about a return to work, improvement in the medical condition, workers' compensation settlements or representative payee issues. The respondents are applicants for and recipients of Title II disability benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 27,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 2,250 hours.

10. *Vocational Rehabilitation ''301'' Program Development—20 CFR, 404.408, 404.460 & 404.468, Subpart E and 20 CFR, 404.1588, Subpart P—0960–0282.* SSA uses Form SSA–4290 to collect information to determine whether an individual, whose disability or blindness has ceased, is eligible for continued benefit payments because of participation in an approved program of vocational rehabilitation services, employment services or other support services. The respondents are State vocational rehabilitation agencies, other public or private providers of vocational rehabilitation services and employment services or other support services.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 8,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 2,000 hours.

11. *Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Adult, Form SSA–3988–TEST; Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Child, Form SSA–3989–TEST—20 CFR Subpart B—416.204—0960–0643.*

Background

The Social Security Act mandates periodic redeterminations of the non-medical factors that relate to the SSI recipients' continuing eligibility for SSI payments. Recent SSA studies have indicated that as many as two-thirds of all scheduled redeterminations completed, with the assistance of a SSA employee, did not result in any change in circumstances that affected payment. Therefore, SSA is planning to increase the number of respondents and revise the test methodology of the currently approved test forms. The expansion of the test is needed to further validate whether the test redetermination process actually results in significant operational savings and a decrease in recipient inconvenience, while still timely obtaining the accurate data needed to determine continuing eligibility through the process.

The Collection

A test of forms SSA–3988–TEST and SSA–3989–TEST will be used to determine whether SSI recipients have met and continue to meet all statutory and regulatory non-medical requirements for SSI eligibility, and whether they have been and are still receiving the correct payment amount. The SSA–3988–TEST and SSA–3989–TEST are designed as self-help forms that will be mailed to recipients or to their representative payees for completion and return to SSA. The objectives of the expanded test are to determine the public's ability to understand and accurately complete the test forms. The respondents are recipients of SSI benefits or their representatives. In addition, SSA wants to determine the public's ability to understand and accurately complete a supplemental SSA–3988, which will be directed to a sample of beneficiaries that continue to receive Medicaid, but whose earnings from work are too high to allow payment of SSI benefits.

Type of Request: Revision of an OMB-approved information collection.

	Respondents	Frequency of response	Average burden per response (min.)	Estimated annual burden (hours)
SSA–3988–TEST	46,500	1	20	15,500
SSA–3988–SUP–TEST2	2,000	1	21	700

	Respondents	Frequency of response	Average burden per response (min.)	Estimated annual burden (hours)
SSA–3989–TEST	8,500	1	20	2,833
Total burden				19,033

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

Authorization to Disclose Information to the Social Security Administration—20 CFR Subpart O, 404.1512 and Subpart I, 416.912—0960–0623. SSA must obtain sufficient medical evidence to make eligibility determinations for the Social Security disability benefits and SSI payments. For SSA to obtain medical evidence, an applicant must authorize his or her medical source(s) to release the information to SSA. The applicant may use one of the forms SSA–827, SSA–827 OP1 or SSA–827 OP2 to provide consent for the release of information. Generally, the State DDS completes the form(s) based on information provided by the applicant, and sends the form(s) to the designated medical source(s). The respondents are applicants for Social Security disability benefits and SSI payments.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 3,853,928.

Frequency of Response: 4.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 2,569,285 hours.

Dated: November 15, 2002.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 02–29570 Filed 11–20–02; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 4208]

Culturally Significant Objects Imported for Exhibition Determinations: ''The Dead Sea Scrolls''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999 (64 FR 56014), and Delegation of Authority No. 236 of October 19, 1999 (64 FR 57920), as amended, I hereby determine that the objects to be included in the exhibition, ''The Dead Sea Scrolls,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with a foreign lender. I also determine that the exhibition or display of the exhibit objects at the Public Museum of Grand Rapids, Grand Rapids, Michigan, from on or about February 16, 2003, to on or about June 1, 2003, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: November 14, 2002.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 02–29594 Filed 11–20–02; 8:45 am]

BILLING CODE 4710–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Textiles and Apparel (ISAC–15)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of an opened meeting.

SUMMARY: The Industry Sector Advisory Committee on Textiles and Apparel (ISAC–15) will hold a meeting on December 10, 2002, from 10 a.m. to 12 p.m. The meeting will be opened to the public from 10 a.m. to 12 p.m.

DATES: The meeting is scheduled for December 10, 2002, unless otherwise notified.

ADDRESSES: The meeting will be held at the North Carolina Center for Applied Textile Technology, 7220 Wilkinson Boulevard, Belmont, North Carolina.

FOR FURTHER INFORMATION CONTACT: Maria D'Andrea, DFO for ISAC–15 at (202) 482–4058, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230 or Christina Sevilla, Director for Intergovernmental Affairs, on (202) 395–6120.

SUPPLEMENTARY INFORMATION: During the opened portion of the meeting the following agenda item will be discussed.

- Department of Commerce (DOC)/Department of Energy (DOE) Project to Explore the Development of a Special ''Textile Marker System.''

Christopher A. Padilla,

Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 02–29537 Filed 11–20–02; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1998–3584]

Proposed Modernization of the Coast Guard National Distress and Response System

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability of finding of no significant impact.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality's Regulations for Implementing NEPA, the U.S. Coast Guard announces that it has approved its Supplemental Program Environmental Assessment (SPEA) and has made available its Finding of No Significant Impact (FONSI) for the proposed modernization of the National Distress and Response System (NDRS) known as ''Rescue 21.''

ADDRESSES: Both the SPEA and FONSI are available for review or copying at the Docket Management Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC, between the hours 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. The documents may also be viewed on the Internet at Web address: http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, the proposed project, the Supplemental Program Environmental Assessment, or the Finding of No Significant Impact, call Ms. Donna M. Meyer, Environmental Program Manager, National Distress and Response System Modernization Project, U.S. Coast Guard Headquarters, at 202–267–1496. For questions on viewing material in the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, at 202–366–5149.

SUPPLEMENTARY INFORMATION: In accordance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) and the Council on Environmental Quality's Regulations for Implementing NEPA (40 CFR parts 1500–1508), the Coast Guard is announcing that it has approved its Supplemental Program Environmental Assessment (SPEA) and has made available its Finding of No Significant Impact (FONSI) for the proposed modernization of the National Distress and Response System (NDRS) known as ''Rescue 21.''

Supplemental Program Environmental Assessment

The Coast Guard prepared an SPEA that assessed the impacts of the no action alternative and three action alternatives that could meet the system requirements for modernizing the National Distress and Response System (NDRS). On September 30, 2002, we published a notice of availability of the SPEA in the **Federal Register** (67 FR 61372). We also circulated 183 copies of the SPEA to interested persons. During the comment period, September 27, 2002, to October 28, 2002, a total of 18 comment letters were received. We reviewed the comments but they revealed no new or additional environmental information.

Finding of No Significant Impact

After considering the comments received during the review and comment period, the Coast Guard issued a Finding of No Significant Impact as a result of modernizing the National Distress and Response System. The modernization of the NDRS will utilize a combination of all three of the action alternatives analyzed in the SPEA by using existing antenna towers, leasing antenna space from a service provider, or constructing a new antenna tower site.

The purpose of this notice is to inform local, State, and Federal government agencies and the public that the Supplemental PEA and FONSI are available for review.

Dated: November 12, 2002.

C.D. Wurster,

RADM, U.S. Coast Guard, Assistant Commandant for Acquisitions.

[FR Doc. 02–29652 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2002–13812]

Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Subcommittee of the Chemical Transportation Advisory Committee (CTAC) on Hazardous Cargo Security will meet to discuss security issues as they relate to the marine transportation of chemicals. This meeting will be open to the public.

DATES: The Subcommittee will meet on Wednesday, December 4, 2002, from 8 a.m. to 4 p.m. and Thursday, December 5, 2002, from 8 a.m. to 4 p.m. This 2-day meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before November 27, 2002. Requests to have a copy of your material distributed to each member of the Subcommittee should reach the Coast Guard on or before November 27, 2002.

ADDRESSES: The Subcommittee will meet at American Commercial Barge Line (ACBL) Company, 1701 E. Market St., Jeffersonville, Indiana. Send written material and requests to make oral presentations to Lieutenant Richard Teubner, Coast Guard Technical Representative for the Subcommittee, Commandant (G–MPS–2), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. This notice is available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Lieutenant Richard Teubner, the Coast Guard Technical Representative for the Subcommittee, telephone 202–267–4129, fax 202–267–4130.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The agenda of the 2-day meeting of the CTAC Subcommittee on Hazardous Cargo Security includes the following:

(1) Introduce subcommittee members and attendees.

(2) Review subcommittee tasking and desired outcome.

(3) Discuss ways to increase marine security awareness within the chemical transportation industry.

(4) Discuss ways to identify cargoes that warrant concern and establish a means to create secure transit environments for such cargoes.

Procedural

This meeting is open to the public. Please note that the meeting may close early if all business is finished. At the discretion of the Subcommittee Chair, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Coast Guard Technical Representative for the Subcommittee and submit written material on or before November 27, 2002. If you would like a copy of your material distributed to each member of the Subcommittee in advance of the meeting, please submit 25 copies to the Coast Guard Technical Representative for the Subcommittee no later than November 27, 2002.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, contact the Coast Guard Technical Representative for the Subcommittee as soon as possible.

Dated: November 14, 2002.

Joseph J. Angelo,

Director of Standards, Marine Safety, Security and Environmental Protection.

[FR Doc. 02–29655 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular (AC) 145–MAN, Guide for Developing and Evaluating Repair Station and Quality Control Manuals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Availability of a proposed AC; extension of Comment period.

SUMMARY: This notice announces the extension of the comment period on proposed AC 145–MAN, which provides an acceptable means, but not the only means, of developing manuals that are required by regulation for aeronautical repair stations. This notice is necessary to give all interested persons the opportunity to present their views about the proposed AC.

DATES: Comments about the proposed AC must be received on or before February 5, 2002.

ADDRESSES: Send comments about the proposed AC to Diana L. Frohn, General Aviation and Commercial Branch (AFS–340), Room 827, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone: (202) 267–7027; e-mail: *diana.frohn@faa.gov.* You can also submit comments electronically using the Internet on the ''Draft AW documents'' page at *http://www.opspecs.com.* Comments may be inspected at the above office between 9 a.m. and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Diana L. Frohn at the above address, e-mail address, or telephone number.

Availability of the of the Proposed Avisory Circular

You can get a copy of the proposed AC by contacting the person named under **FOR FURTHER INFORMATION CONTACT.** You can also get an electronic copy of the proposed AC using the Internet on the ''Draft AW documents'' page at *http://www.opspecs.com* or on the FAA's ''Regulatory Guidance Library'' page at *http://www1.airweb.faa.gov/Regulatory_and_Guidance_Library/rgDAC.nsf/MainFrame?OpenFrameSet.*

Comments Invited

Interested persons are invited to comment about the proposed AC by sending written data, views, or arguments. Commenters should indicate AC 145–MAN, Guide for Developing and Evaluating Repair Station and Quality Control Manuals, in the comment and send comments to the address specified above. The Continuous Airworthiness Maintenance Division will consider all comments before issuing the final AC.

Background

This proposed AC is the result of an amendment to part 145 of Title 14, Code of Federal Regulations (14 CFR), published in the **Federal Register** on August 6, 2001. The final rule changed procedures and requirements for aeronautical repair stations and requires repair stations to develop a repair station manual and a quality control manual. The current AC (AC 145–3, dated February 13, 1981) does not incorporate these new procedures and requirements, nor does it reflect industry practices used by certificated repair stations today. FAA, therefore, finds it necessary to discard current guidance materials and proposed new guidance material. This proposed AC would replace AC 145–3.

The proposed AC incorporates several examples of quality systems that repair stations may choose from to determine which best suits their individual needs. The proposed AC also incorporates several ''checklists'' to determine if the repair station has fully considered all its options and requirements. Further, this AC aids in the development of procedures and programs to assist the harmonizations efforts of FAA with the European Joint Aviation Authority and other regulatory authorities.

FAA will consider each comment about the proposed AC and incorporate appropriate changes. This proposed AC will be reviewed in conjunction with the regulatory requirements of 14 CFR parts 43, 65, and 121, as applicable. This proposed AC would not change, add, or delete any regulatory requirement or authorize any deviation from parts 43, 65, or 121.

Issued in Washington, DC on November 15, 2002.

Louis C. Cusimano,

Deputy Director, Flight Standards Service.

[FR Doc. 02–29666 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FAA Approval of Noise Compatibility Program and Determination on Noise Exposure Maps; Orlando Sanford International Airport, Sanford, Florida

AGENCY: Federal Aviation Administration.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by Sanford Airport Authority under the provisions of 49 U.S.C. 47501 *et. seq.* (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR part 150. These findings are made in recognition of the description of Federal and non-federal responsibility in Senate Report No. 96–52 (1980). On October 21, 2002, the FAA Approved the Orlando Sanford International Airport noise compatibility program. Most of the recommendations of the program were approved. The FAA also is announcing its determination that the noise exposure maps for Orlando Sanford International Airport for the years 2001 and 2006 and associated documentation, submitted with the noise compatibility program, are in compliance with applicable requirements of FAR Part 150 effective April 24, 2002.

EFFECTIVE DATE: The effective date of the FAA's approval of the Orlando Sanford International Airport Noise Compatibility Program is October 21, 2002.

FOR FURTHER INFORMATION CONTACT: Bonnie L. Baskin, Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando, Florida 32882, (407) 812–6331, Extension 30. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for Orlando Sanford International Airport, effective October 21, 2002, and that the noise exposure maps for this same airport are determined to be in compliance with applicable requirements of FAR Part 150.

Noise Exposure Maps: Under 49 U.S.C. section 47503 of the Aviation Safety and Noise Abatement Act (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community,

government agencies, and persons using the airport.

The FAA completed its review of the noise exposure maps and accompanying documentation submitted by Sanford Airport Authority for Orlando Sanford International Airport. The documentation that constitutes the ''noise exposure maps'' as defined in section 150.7 of Part 150 includes: Exhibit 7–1, ''2001 DNL Noise Contours'', Exhibit 10–2, ''2006 DNL Noise Contours-Inclusive of All Operational Controls (With Future Land Use)'', Tables 6–2 through 6–4, Baseline Operations, Tables 6–6 through 6–8, Forecast Operations, Table 6–11, Time of Day Operations, Exhibits 6–3 through 6–5, Arrival, Departure, and Training Tracks, and Exhibit 9–5, Helicopter Routes. The airport operator certified on December 28, 2001, that the 2001 and 2006 noise exposure map contours and accompanying documents are true and complete and that consultation required by section 150.21 was accomplished (page 8–1 of documentation). The FAA has determined that these noise exposure maps and accompanying documentation are in compliance with applicable requirements. This determination was effective on April 24, 2002. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the noise exposure maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, nor is it a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Noise Compatibility Program: Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations.

1. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

2. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

3. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

4. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Orlando, Florida.

The Orlando Sanford International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion beyond the year 2006. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 47504(b) of the Act. The FAA began its review of the program on April 24, 2002, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submittal program contained nineteen (19) proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Associate Administrator effective October 21, 2002.

Outright approval was granted for seventeen (17) specific program elements. One (1) element was disapproved for the purposes of Part 150, and one (1) element required no action at this time as the measure relates to flight procedures under section 47504(b) of the Aviation Safety and Noise Abatement Act. Additional review by the FAA is necessary. The FAA approved as voluntary the following flight procedures: (1) Maximize east flow at the airport between the hours of 6 a.m. and 11 p.m. (2) When the airport has a 24-hour control tower, between the hours of 11 p.m. to 6 a.m. maximize departures to the east and arrivals from the east (when air traffic conditions and weather permit); (3) For jet aircraft departures on Runway 9L, establish a departure turn that would direct northbound aircraft to turn to the northeast, as soon as possible after lift-off; (4) For jet departures to northern destinations on Runway 27R, establish a northwesterly turn approximately three miles west of the beginning of take-off roll on Runway 27R (a turn immediately west of US 17/92). (5) Maintain the current ''close-in'' procedure for jet aircraft departures on

Runway 27R and implement the ''distant'' departure procedure for jet aircraft departures on Runway 9L; (6) During west flow (east flow is the preferred configuration at SFB), some aircraft are held at 2,000 feet in altitude to provide separation from crossing aircraft. Recent changes have been made to hold departing air carrier aircraft from SFB at the Runway 27R threshold. These aircraft are held until there is sufficient space to release the aircraft to depart without the 2,000-foot hold altitude restriction. Further improvements to this procedure should be pursued to allow more aircraft to have an unrestricted climb west out of SFB; and (7) A recommendation that departing helicopters ascend to and maintain 500 feet close to the airport, arriving helicopters maintain and descend from 500 feet close to the airport, having helicopters overfly roadways (in non-emergency situations) and maintain the highest altitude possible in the immediate vicinity of the airport.

The Flight procedure that was deferred pending FAA review is: For jet aircraft conducting ILS flight training on Runway 9L–27R direct aircraft to continue along the runway heading to gain altitude beyond the airport boundaries prior to making northerly turns. And the measure disapproved by the FAA for purposes of part 150 is the planned extension of Runway 9R–27L, which is included in the airport's master plan to enhance capacity. Although the airport proposes to design the extension on Runway 9R–27L to reduce noise impacts, its primary benefit is capacity.

Other measures approved by the FAA included: Evaluate the benefits of a noise fence (solid barrier) of sufficient height and length that noise during run-up activity would be directed up or reflected away from residences. The Sanford Airport Authority should also investigate the benefit of hush house options that would result in reduced noise exposure to close-in communities. Acquire three portable noise monitoring systems to be used in conducting short term monitoring in communities around the airport, in response to requests for short-term monitoring. It also will assist the SANAC and Authority in their efforts to provide information to the public and consider additional noise abatement measures. FAA's decision noted that monitoring equipment may not be used for enforcement purposes of aircraft in flight by in situ measurement of any present noise thresholds, for reasons of aviation safety.

FAA approved 8 land use measures, including: (1) Comprehensive Plans for both the City and the County should specifically identify that no new residential uses should be allowed in the 60 DNL contour; (2) The Land Development Codes for both the City and County should identify that no new residential uses should be allowed in the 60 DNL; (3) Due to the planned southerly extension to Runway 18–36 and the amount of aircraft touch-and-go training activity south and east of the airport, it is preferred that no new residential uses be allowed east or south of the airport's new runway system to the Conservation area adjacent to Lake Jessup. If, due to other reasons, residential use must be permitted, no mobile homes or home ownership should be permitted; (4) No new public educational facilities should be allowed in areas east and south of the Airport, within the limits described in (3) Above; (5) If a restriction on all future residential uses can not be implemented for the entire area south and east of the airport, then, it is recommended that notification of noise exposure and overflight activity be required in the form of avigation easements for all new residential development in this area. FAA noted in its decision that FAA's policy published in 1998 (63 FR 16409) states that no Federal funding will be made available for mitigation of future noncompatible development on currently undeveloped land if it is located within the airport's published NEM contours; (6) One option for implementing additional limitations on residential use and requirements for avigation easements is through the use of overlay zoning. The overlay zone could include the property south of SR 46 and east of the currently zoned industrial areas located south of Runway 18–36 (east of Brisson Avenue South) to the Lake Jessup Conservation area. The overlay zone would allow permitted uses and development approval procedures instituted by the City and County but would identify additional residential use limitations and avigation requirements associated with the overlay zone. The FAA reiterated in 1998 policy in its decision here; (7) Airport staff should be notified of requests for modifications and related hearing dates for applications for planning and zoning modifications (comprehensive plan changes, land development code changes, site plan approval requests, rezoning, subdivision applications, etc.). An individual at the County, the City and the Airport staff should designated with the responsibility for this coordination; and (8) The airport proposes to offer to acquire incompatible property located in whole or in part within the DNL 65 dB noise contour of the official NEM's. The majority of the property would be east of the airport, although a few parcels are to the west and north within the DNL 65 dB noise contour. FAA stated in its decision that acquisitions are limited to existing non-compatible land uses located within the 65 DNL noise contour of the official NEM's, specifically ''2001 DNL Noise Contours'', and consistent with FAA's 1998 remedial mitigation policy (63 FR 16409).

These determinations are set forth in detail in a Record of Approval signed by the Associate Administrator on October 21, 2002.

Copies of the noise exposure maps and of the FAA's evaluation of the maps, and copies of the record of approval and other evaluation materials and the documents comprising the submittal to the FAA are available at the FAA office listed above and at the administrative office of the Sanford Airport Authority. Questions on either of these FAA determinations may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Orlando, Florida on November 7, 2002.

W. Dean Stringer,

Manager, Orlando Airports District Office.

[FR Doc. 02–29455 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

User Input on the Use of the Current Icing Potential (CIP) Weather Product

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of public meeting

SUMMARY: The FAA will hold an informal public meeting to seek aviation weather user input. Details: December 18, 2002; Federal Aviation Administration, 1575 ''Eye'' Street, Washington, DC.; 9 a.m. to 1 p.m. in the 9th Floor Conference Room. The objective of this meeting is to provide an opportunity for interested aviation weather users to discuss the use of the Current Icing Potential (CIP) product and provide input to FAA's plans for implementing this new weather product.

DATES: The meeting will be held in the 9th Floor Conference Room, 1575 ''Eye'' Street, Washington, DC Times: 9 a.m.–1 p.m. on December 18, 2002.

FOR FURTHER INFORMATION CONTACT: Steve Albersheim, Aerospace Weather Policy Division, ARS–100, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone number (202) 385–7704; FAX: (202) 385–7701; e-mail: *steve.albersheim@faa.gov.* Internet address: *http:\\www.steve.albersheim@faa.gov.*

SUPPLEMENTARY INFORMATION:

History

On December 11, 2001, the Federal Aviation Administration's Aviation Weather Technology transfer (AWTT) Board approved the Current Icing Potential (CIP) for operational use. The CIP became operational in April 2002 for use by aviation meteorologists and airline operations center dispatchers who are trained on the use of the product. The CIP provides a graphical display of icing potential or the likelihood of icing in atmosphere. Further it allows users to obtain a visual portrayal of icing potential at different flight levels. The CIP does not indicate the severity of icing.

It is the intent of the FAA to allow all aviation users of the National Airspace System (NAS) to have access to this product. However, because the CIP cannot provide all the information that is currently contained in existing approved products as the AIRMET and SIGMET, limitations on its use have been stipulated.

The purpose of the proposed user meeting is to discuss needed changes in CIP to enable its use by pilots. The existing product uses input from satellite imagery and data, radar, surface observations, numerical models, and pilot weather reports to provide a three-dimensional diagnosis of hourly potential of icing and super cooled large droplets (SLD). Issues that need to be resolved for pilots is how this product in its planned future versions can be used in the following decisions: route/altitude selection, go-no go decisions, escape decisions, in-flight route changes, hazardous weather deviation, and landing decisions. It is important that pilots understand the attributes of the CIP and how it can be applicable in support of these various applications or decisions. This user meeting will begin the process to further evaluate how an improved CIP can be used to support these decisions. The meeting will be conducted in two parts

Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by representatives of the FAA Headquarters.

(b) The meeting will be open to all persons on a space-available basis. Every effort was made to provide a meeting site with sufficient seating capacity for the expected participation. There will be neither admission fee nor other charge to attend and participate.

(c) FAA personnel present will conduct a briefing on the AWTT process and the history of the approval of this product. Any person will be allowed to ask questions during the presentation and FAA personnel will clarify any part of the presentation that is not clear.

(d) FAA personnel will present a briefing on the physical attributes of the product and how the information is processed to provide a three-dimensional analysis of conventional and SLD icing potential in space and time. Any person will be allowed to ask questions during the presentation and FAA personnel will clarify any part of the presentation that is not clear

(e) FAA personnel will lead a discussion on issues that relate to what improvements are required in the next version of CIP to allow pilots to use this product in the applications listed above. Specific issues include: the validity period of the product and how icing severity can be linked with icing potential. Any person present may participate in the discussion.

(f) An official verbatim transcript or minutes of the informal meeting will not be made. However, a list of the attendees and a digest of discussions during the meeting will be produced. Any person attending may receive a copy of the written information upon request to the information contact, above.

(g) Every reasonable effort will be made to hear each person's feedback consistent with a reasonable closing time for the meeting. Written feedback may also be submitted to FAA personnel for up to seven (7) days after the close of the meeting.

Agenda

(a) Opening Remarks and Discussion of Meeting Procedures.

(b) Briefing on AWTT Process history of the approval of this product.

(c) Briefing on the physical attributes of the product and information processing.

(d) Discussion on improvement issues for future versions of CIP.

(e) Closing Comments.

Issued In Washington, D.C. on November 21, 2002.

David Whatley,

Director, Aerospace Weather Policy and Standards Staff.

[FR Doc. 02–29453 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Key West International Airport, Key West, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: This correction revises information from the previously published notice.

In notice document 02–27731 appearing on page 64452, in the issue of Thursday, October 31, 2002, under Notice of Intent to Rule on Application, in the second column, in the 38th line, the PFC Application No., should read, 02–06–C–00–EYW.

In addition, under **SUPPLEMENTARY INFORMATION,** in the third column, in the 28th line, should read, ''On October 22, 2002, the FAA determined * * *''

FOR FURTHER INFORMATION CONTACT: Susan A. Moore, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822, (407) 812–6331, extension 20.

Issued in Orlando, Florida on November 13, 2002.

W. Dean Stringer,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 02–29664 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 03–04–C–00–MSO To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Missoula International Airport, Submitted by the Missoula County Airport Authority, Missoula International Airport, Missoula, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Missoula International Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before December 23, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: David S. Stelling, Manager; Helena Airports District Office, HLN–ADO; Federal Aviation Administration; FAA Building, Suite 2; 2725 Skyway Drive, Helena, Montana 59602–1213.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to John Seymour, AAE, Director of Airports: Missoula County Airport Authority, 5225 Highway 10 West, Missoula, Montana 59808.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Missoula International Airport, under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: David S. Stelling, Manager; Helena Airports District Office, HLN–ADO; Federal Aviation Administration; FAA Building, Suite 2; 2725 Skyway Drive, Helena, Montana 59602–1213. 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 03–04–C–00–MSO to impose and use PFC revenue at Missoula International Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On November 13, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by Missoula County Airport Authority, Missoula International Airport, Missoula, Montana, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 5, 2003.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge—effective date: February 1, 2004.

Proposed charge—expiration date: April 1, 2006.

Total requested for use approval: $832,464.

Brief description of proposed project:

Rehabilitate air carrier apron (Phrase 2).

Class or classes of air carriers, which the public agency has requested not be required to collect PFC's: Air Taxi/Commercial Operators (ATCO) filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Missoula International Airport.

Issued in Renton, Washington on November 13, 2002.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 02–29663 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Palm Beach International Airport, West Palm Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: This correction revises information from the previously published notice. In notice document 02–26585 appearing on page 64444 in the issue of Friday, October 18, 2002, under **SUPPLEMENTARY INFORMATION**, in the first column, in the 48th line, the PFC Application No., should read, 02–07–C–00–PBI.

FOR FURTHER INFORMATION CONTACT: Matthew J. Thys, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822, (407) 812–6331.

Issued in Orlando, Florida on November 13, 2002.

W. Dean Stringer,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 02–29665 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Proposed Policy Statement No. ANE–2002–35.15–R0]

Policy for Propeller Safety Analysis

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed policy statement; request for comments.

SUMMARY: The Federal Aviation Administration (FAA) announces the availability of proposed policy for propeller safety analysis.

DATES: Comments must be received by January 20, 2003.

ADDRESSES: Send all comments on the proposed policy to the individual identified under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Jay Turnberg, FAA, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, MA 01803; e-mail: *jay.turnberg@faa.gov;* telephone: (781) 238–7116; fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

The proposed policy statement is available on the Internet at the following address: *http//www/airweb/faa/gov/rgl.* If you do not have access to the Internet, you may request a copy by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT.** The FAA invites interested parties to comment on the proposed policy. Comments should identify the subject of the proposed policy and be submitted to the individual identified under **FOR FURTHER INFORMATION CONTACT.** The FAA will consider all comments received by the closing date before issuing the final policy.

Background

The intent of this proposed policy is to provide guidance for conducting a propeller safety analysis. Although part 35 of Title 14 of the Code of Federal Regulations (14 CFR part 35) does not explicitly require a safety analysis, safety analyses are frequently conducted to support part 35 requirements, special conditions, and aircraft manufacturer certification requirements. The proposed policy would not establish new requirements.

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

Issued in Burlington, Massachusetts, on November 6, 2002.

Francis A. Favara,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–29662 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement No. ANM–02–111–05]

Policy Statement With Respect to Part 25 Transport Category Airplanes Utilizing Displays With Geometric Altitude Labeled as a Mean Sea Level (MSL)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed policy; request for comments.

SUMMARY: The Federal Aviation Administration (FAA) announces the availability of proposed policy that clarifies current FAA policy with respect to part 25 transport category airplanes utilizing displays with geometric altitude labeled as a mean sea level (MSL).

DATES: Send your comments on or before December 23, 2002.

ADDRESSES: Address your comments to the individual identified under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Ken Schroer, Federal Aviation Administration, Transport Airplane Directorate, Transport Standards Staff, Airplane and Flight Crew Interface Branch, ANM–111, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (425) 227–1154; fax (425) 227–1320; e-mail: *ken.schroer@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The proposed policy is available on the Internet at the following address: *http://www.faa.gov/certification/aircraft/anminfo/devpaper.cfm.* If you do not have access to the Internet, you can obtain a copy of the policy statement by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

The FAA invites your comments on this proposed policy. We will accept your comments, data, views, or arguments by letter, fax, or e-mail. Send your comments to the person indicated in **FOR FURTHER INFORMATION CONTACT**. Mark your comments, ''Comments to Policy Statement ANM–02–111–05.''

Use the following format when preparing your comments:

- Organize your comments issue-by-issue.
- For each issue, state what specific change you are requesting to the proposed general statement of policy.
- Include justification, reasons, or data for each change you are requesting.

We also welcome comments in support of the proposed policy.

We will consider all communications received on or before the closing date for comments. We may change the proposed policy because of the comments received.

Background

This memorandum clarifies Federal Aviation Administration (FAA) certification policy with respect to installations that label Global Positioning System (GPS) derived geometric altitude as Mean Sea Level (MSL) altitude. The issue concerns the Terrain Awareness and Warning Systems (TAWS), Global Navigation Systems (GNS), and any other installation in which GPS derived altitude is presented as MSL altitude.

Regardless of the higher altitude accuracy that can be derived from GPS data, barometric altitude referenced to MSL remains the present standard used in the U.S. and internationally for vertical navigation. Even though there may be altitude errors while using barometric altitude, all aircraft within a particular sector are navigating (in principle) with the same error. Since there is a potential for large differences between barometric altitude and GPS derived altitude, labeling both as MSL may result in confusion and improper vertical navigation during high flightcrew workloads.

Issued in Renton, Washington, on November 13, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–29659 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Alameda and Contra Costa Counties, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Alameda and Contra Costa Counties.

FOR FURTHER INFORMATION CONTACT: Maiser Khaled, Chief District Operations—North, Federal Highway Adminstration, California Division, 980 Ninth Street, Suite 400, Sacramento, California 95814–2724, Telephone: (916) 498–5020 or John Webb, Chief Environmental Management, Caltrans North Region, Sacramento Area Office, PO Box 942874, Sacramento, CA. 94274–0001, Telephone: (916) 274–0588.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans), will prepare an environmental impact statement (EIS) for a proposed project to construct a forth bore of the Caldecott tunnel between the State Route 24/Broadway interchange in the City of Oakland in Alameda County and the State Route 24/Camino Pablo interchange in the City of Orinda in Contra Costa County, California.

Improvements to the corridor are considered necessary to alleviate congestion, improve safety, and provide for existing and projected trafic demand. Alternatives under consideration include (1) taking no action; (2) a 2-lane bore North or South; (3) a 3-lane bore North or South; and (4) a 4-lane bore North or South.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Two public scoping meetings will be held. One public scoping meeting will be held in the evening on December 11 at 6:30 p.m. at the Orinda Masonic Center, 9 Altarinda Road in Orinda. A second public scoping meeting will be held in the evening on December 12 at at 6:30 p.m. at the MetroCenter Auditorium, 101 Eighth Street in Oakland. Additional public meetings will be held. In addition, a public hearing will be held. The draft EIS will be available for public and agency review and comment prior to the public hearing. Public notice will be given of the exact time and location of the meetings and hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: November 14, 2002.

Maiser Khaled,

Chief, District Operations—North Sacramento, California.

[FR Doc. 02–29564 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number FRA–2002–13494

Applicant: CSX Transportation, Incorporated, Mr. Eric G. Peterson, Assistant Chief Engineer, Signal Design and Construction, 4901 Belfort Road, Suite 130 (S/C J–370), Jacksonville, Florida 32256.

CSX Transportation, Incorporated seeks approval of the proposed modification of the signal system, between milepost CTT–19.8 and milepost CTT–22.O, ''WR Tower,'' on the Toledo Terminal Subdivision, Detroit Division, near Toledo, Ohio. The proposed changes are associated with the removal of the manually controlled location at ''WR Tower,'' conversion of the method of operation between milepost CTT–19.8 and CTT–21.2 from Interlocking Rules 255–259 to Traffic Control System Rules 265–272, and relocation of control of the area to the dispatch center in Jacksonville, Florida. The proposed changes include removal of signals 44R, 44RC, and 44L, conversion of the power-operated No. 43 switch to hand operation, and removal of the power-operated derail switch between the outer yard and the Walbridge Yard.

The reason given for the proposed changes is to eliminate facilities no longer needed in present day operation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility.

All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC, on November 13, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–29656 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor Vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before December 23, 2002.

Address Comments to: Records Center, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW., Washington, DC or at *http://dms.dot.gov.*

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on November 18, 2002.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials, Exemptions and Approvals.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
New Exemptions				
13161–N	RSPA–02–13798	Honeywell International Inc., Morristown, NJ.	49 CFR 172.301(a)(1), 172.301(c), 172.400, 172.504, 173.202.	To authorize the transportation in a commerce of small quantity of Class 3 hazardous material in specially designed packaging to be transported as unregulated. (Modes 1, 4.)

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
13164–N	RSPA–02–13802	United States Enrichment Corporation (USEC), Bethesda, MD.	49 CFR 173.420	To authorize the one-time transportation in commerce of 480M type cylinders for use in transporting Class 7 hazardous materials. (Modes 1, 2.)
13165–N	RSPA–02–13803	Harris Corporation, Melbourne, FL.	49 CFR 172.200	To authorize the transportation in commerce of non-bulk hazardous materials within the same facility along public roads with alternative shipping papers. (Mode 1.)

[FR Doc. 02–29657 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (*e.g.* to provide for additional hazardous materials, packaging design changes, additional mode of transportation, *etc.*) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before December 6, 2002.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW., Washington, DC or at *http://dms.dot.gov.*

This notice of receipt of applications for modification of exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on November 18, 2002.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Exemptions and Approvals.

Application No.	Docket No.	Applicant	Modification of exemption
11650–M		Autoliv ASP, Inc. Ogden, UT (See Footnote 1)	11650
12104–M	RSPA–98–4039	Mitsubishi Polyester Film, Greer, SC (See Footnote 2)	12104
12782–M	RSPA–01–10318	Air Liquide America L.P., Houston, TX (See Footnote 3)	12782
12927–M	RSPA–02–11628	Tri-Wall, A Weyerhaeuser Business, Butler, IN (See Footnote 4)	12927
12995–M	RSPA–02–12220	The Dow Chemical Company, Midland, MI (See Footnote 5)	12995
13032–M	RSPA–02–12442	CONAX Florida Corporation, St. Petersburg, FL (See Footnote 6)	13032
13100–M	RSPA–02–13244	Aztec Peroxides, Elyria, OH (See Footnote 7)	13100
131214–M	RSPA–02–13421	Brenntag Mid-South, Inc., Henderson, KY (See Footnote 8)	13124

[1] To modify the exemption to authorize a newly designed airbag inflator device with a maximum service pressure of 8500 PSIG for use as a component of a automobile vehicle safety system.

[2] To modify the exemption to upgrade loading procedures and drawings for the DOT Specification tank cars transporting Class 9 materials.

[3] To modify the exemption to authorize the transportation of certain Division 2.2 and 2.3 materials in DOT Specification cylinders equipped with plastic valve protection caps.

[4] To modify the exemption to authorize cargo vessel as an additional mode for the transportation of various waste hazardous materials.

[5] To modify the exemption to authorize the transportation of a Division 2.2 material in DOT 2Q Specification on-refillable containers.

[6] To reissue the exemption originally issued on an emergency basis for the use of non-DOT specification, non-refillable composite pressure vessels for the transportation of Division 2.2 materials.

[7] To reissue the exemption originally issued on an emergency basis for the transportation of a Division 5.2 material in a UN31HAI intermediate bulk container (IBC).

[8] To reissue the exemption originally issued on an emergency basis for the transportation of certain Class 8 materials in UN31H1 or UN31H2 intermediate bulk containters (IBC).

[FR Doc. 02–29658 Filed 11–20–02; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34273]

Indiana Northeastern Railroad Company—Change in Operators Exemption—Branch and St. Joseph Counties Rail Users Association, Inc.

Indiana Northeastern Railroad Company (INR), a Class III rail carrier, and the Branch and St. Joseph Counties Rail Users Association, Inc. (RUA) have jointly filed a notice of exemption under 49 CFR 1150.41 for INR to operate over approximately 24.34 miles of rail line owned by the RUA, from milepost 382.5 near Coldwater, MI, to milepost 406.84 near Sturgis, MI, in Branch and St. Joseph Counties, MI.[1]

The transaction was expected to be consummated on or shortly after November 1, 2002, the effective date of the exemption (7 days after the notice was filed).[2]

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34273, must be filed with the Surface Transportation Board, 1925 K Street NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Carl M. Miller, 618 Professional Park Drive, PO Box 332, New Haven, IN 46774 [Attorney for INR], and Charles R. Bappert, Biringer, Hutchinson, Lillis & Bappert, P.C., 100 West Chicago Street, Coldwater, MI 49036–1897 [Attorney for RUA].

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: November 12, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–29328 Filed 11–20–02; 8:45 am]

BILLING CODE 4915–00–P

[1] INR currently operates over that portion of RUA's rail line that runs from milepost 376.56, east of Quincy, MI, to milepost 386.96, west of Coldwater, in Branch County, MI. Michigan Southern Railroad Company, Inc., Michigan Southern Railroad Company f/k/a The Wabash & Western Railroad Company (collectively, Michigan Southern), currently operates over RUA's line from Coldwater to Sturgis, which is the portion of the line involved in the instant transaction. Michigan Southern and INR currently jointly operate that portion of RUA's line between milepost 382.5 (Coldwater) and milepost 386.96. *See The Indiana Northeastern Railroad Company—Operation Exemption—Branch and St. Joseph Counties Rail Users Association, Inc., in Branch County, MI,* STB Finance Docket No. 33760 (STB served June 30, 1999).

[2] The notice indicates that an agreement has been reached between INR, RUA and Michigan Southern, for Michigan Southern's operating rights to be transferred to INR upon the effective date of this notice. Thus, after this transaction, INR will be the sole operator over RUA's line from milepost 376.56 (Quincy) to milepost 406.84 (Sturgis). INR and RUA state that all shippers on the line have been notified of the change in operators, and that a copy of this verified notice of exemption was sent to Michigan Southern.

DEPARTMENT OF THE TREASURY

Customs Service

Notice of Issuance of Final Determination Concerning Laser Printer Engines

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that Customs has issued a final determination concerning the country of origin of certain laser printer engines which are sold to OEM's to be incorporated into laser printers which will be offered to the United States Government. The final determination found that, based upon the facts presented, the country of origin of laser printer engines is Japan.

DATES: The final determination was issued on November 8, 2002. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of November 21, 2002.

FOR FURTHER INFORMATION CONTACT: Karen S. Greene, Special Classification and Marking Branch, Office of Regulations and Rulings (202–572–8838).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on November 8, 2002, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), Customs issued a final determination concerning the country of origin of certain laser printer engines which are sold to OEM's to be incorporated into printers offered to the United States Government . The U.S. Customs ruling number is HQ 562502. This final determination was issued at the request of Canon, Inc., under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). The final determination concluded that, based upon the facts presented, the assembly of the laser scanner unit subasssembly in Japan and the final assembly in Japan of the laser scanner unit with other components to create certain laser printer engines results in a substantial transformation of the components imported into Japan. Accordingly, the country of origin of the printer engines is Japan.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, Customs Regulations (19 CFR 177.30), states that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of November 21, 2002.

Dated: November 8, 2002.

Glen E. Vereb,

Acting Assistant Commissioner, Office of Regulations and Rulings.

Attachment

HQ 562502

MAR–05 RR:CR:SM 562502 KSG

CATEGORY: Marking

Harvey M. Applebaum, Esq.,

Covington & Burling, 1201 Pennsylvania Avenue NW., Washington, DC 20004–2401.

Re: Country of origin of computer laser printer engines; substantial transformation;19 CFR 177.22; procurement

Dear Mr. Applebaum: This is in response to your letter dated June 4, 2002, on behalf of Canon, Inc., requesting a final determination of origin pursuant to 19 CFR 177.22(c) regarding U.S. Government procurement of certain laser printer engines assembled in Japan.

Facts

Canon, Inc., is the foreign manufacturer and exporter of the printer engine and therefore, a party-in-interest as defined in 19 CFR 177.22(d).

This case involves the Canon P1070 printer engine that is the principal part of laser beam printers. Canon will sell the printer engines exclusively to OEM's. The printer engine carries out most of the electrophotographic process, including the exposure function.

The printer engine is composed of three subassemblies; the laser scanner unit, the transfer feeder unit and outer covers. The laser scanner unit is assembled in Japan using components manufactured in Japan and other countries. The laser scanner unit performs the exposure function. The transfer

feeder unit is assembled in China using components from Japan, China and Thailand. The transfer feeder unit carries out the transfer and fixing functions. The outer covers are manufactured in China.

The first set of assembly steps for the laser scanner unit in Japan completes the laser unit subcomponent. Using setting equipment, a laser chip and collimator lens unit are attached to the laser unit printed circuit board (''PCB''). An operator solders the terminal of the laser chip to the laser unit PCB. An operator then adjusts the power of the laser beam radiated from the laser unit and checks the laser unit exterior.

Following completion of the laser unit, an operator attaches additional component parts to an optical case: using screws, an operator attaches the beam detect (''BD'') sensor unit, scanner motor unit, laser unit and BD mirror; using a fixing spring, an operator attaches a reflection mirror; and using ultraviolet adhesives, an operator attaches a toric lens, fo lenses and a cylindrical lens. An operator measures and adjusts the power of the laser beam and jitter (distortion of rotating shaft of scanner motor).

Then, an operator determines the starting point of the laser scanning. Finally, an operator attaches to the laser scanner unit a BD sensor unit moltplane and motor wire harness moltplane (by seal), a connector (by hand) and an outer cover (with screws). An operator then checks the exterior of the laser scanner unit. You advised that the assembly of the laser scanner unit requires precision.

The transfer feeder unit transfers the toner on the photosensitive drum onto print paper. Assembly of the transfer feeder unit in China involves many steps and is a time-consuming process. This assembly includes attachment of the following components to a mold frame unit: paper pick-up unit, paper feed roller, registration roller unit, transfer charging roller unit, DC controller unit, pick-up drive unit, main drive unit, fixing unit and delivery roller unit. An operator then performs an electrical check of the transfer feeder unit. Using screws, an operator next attaches an outer cover and front cover to the transfer feeder unit. Finally, an operator checks the paper feed function of the transfer feeder unit.

The final assembly of the laser beam printer engine occurs in Japan. Using screws, an operator fixes the laser scanner unit to the transfer feeder unit. An operator attaches the following components by hand to the laser scanner unit and transfer feeder unit: a laser wire harness, scanner motor wire harness, and BD wire harness. An operator then checks the electrical function of the engine to meet internal electrical safety requirements. An operator next attaches an auxiliary cover and display wire harness along with an upper cover and panel unit. Following the engine assembly, an operator evaluates the image of test pattern printouts to confirm that the printer engine meets printing precision requirements. You indicate that precise assembly is required for the printer engine.

Issue

Whether the printer engines are substantially transformed in Japan so that they become products of Japan for U.S. Government procurement purposes.

Law and Analysis

Under subpart B of Part 177, 19 CFR 177.21 *et seq.*, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511 *et seq.*), the Customs Service issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated foreign country or instrumentality for the purposes of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

Also see 19 CFR 177.22(a).

If the manufacturing or combining process is a minor one which leaves the identity of the imported article intact, a substantial transformation has not occurred. *See Uniroyal Inc.* v. *United States,* 3 CIT 220, 542 F. Supp. 1026 (CIT 1982). Assembly operations which are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. *See* C.S.D. 80–111, C.S.D. 85–25, and C.S.D. 90–97.

In *Texas Instruments Inc.* v. *United States,* 681 Fed 2d 778 (CCPA 1982), the court held that the assembly of encapsulated integrated circuits in Taiwan from materials imported from the U.S. constituted a double substantial transformation for the purposes of the Generalized System of Preferences (''GSP''). The imported goods involved in the case were electronic camera parts called ''cue modules'' that consist of a flexible circuit board with three integrated circuits attached. The court determined that silicon slices were imported into Taiwan and then further manufactured in Taiwan into IC chips. The IC chips were then manufactured into finished IC's. The court noted that the question presented was ''a mixed question of technology and customs law. * * *'' The court concluded that the finished IC's were ''the result of extensive manufacturing operations in Taiwan which converted materials into articles, as distinguished from mere assembly * * *'' and determined that a double substantial transformation had occurred.

Customs ruled in Headquarters Ruling Letter (''HRL'') 561734, dated March 23, 2001, 66 Fed. Reg. 17222, that Sharp multifunctional machines (printer, copier and fax machine) assembled in Japan were a product of Japan for procurement purposes. The machines were comprised of 227 parts (108 parts sourced from Japan, 92 parts from Thailand, 3 parts from China, and 24 parts from other countries) and eight subassemblies, each of which was also assembled in Japan. Further, the scanner unit (one of the eight subassemblies) which was assembled in Japan was characterized as ''the heart of the machine.'' *Also see* HRL 561568, dated March 22, 2001, 66 Fed. Reg. 17222.

In HRL 560433, dated September 19, 1997, Customs held that the assembly in the United Kingdom of audio/video stereo receivers from 16 subassemblies and other components originating from various countries resulted in a substantial transformation. Customs noted in that ruling that numerous skilled workers assembled the stereo receivers from numerous components and hundreds of raw materials. In HRL 734045, dated October 8, 1991, Customs held that foreign subassemblies and other components imported into Hong Kong which were processed and assembled with other domestic components to make laptop and notebook personal computers were substantially transformed as a result of the Hong Kong operations.

Based on the facts in this case and consistent with HRL 561734 and HRL 560433, we find that the printer engines are substantially transformed in Japan. When taken together, the manufacture of the laser scanner unit and final assembly of the printer engine in Japan is complex and meaningful. There are numerous parts involved in the assembly of the laser scanner unit and the final assembly of the printer engine. The assembly requires precision and trained workers. Further, as noted in HRL 561734, the scanner unit is an integral part of the printer engine. The name, character and use of the subassemblies and parts imported into Japan change as a result of the processing and other assembly operations performed in Japan. Therefore, pursuant to 19 U.S.C. 2518(4)(B), we find that the country of origin of the printer engines is Japan.

Holding

Based on the facts presented, the components imported into Japan that are used in the manufacture of the computer printer engines involved in this case are substantially transformed in Japan. Accordingly, pursuant to 19 U.S.C. 2518(4)(B), the country of origin of the printer engines is Japan.

Notice of this final determination will be given in the **Federal Register** as required by 19 CFR 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR 177.31, that Customs reexamine the matter anew and issue a new final determination.

Any party-at-interest may, within 30 days after publication of the **Federal Register** notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Glen E. Vereb,

Acting Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 02–29567 Filed 11–20–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–13: OTS Nos. 3915 and 17945]

First Niagara Financial Group, MHC, Lockport, New York, and First Niagara Bank, Lockport, NY; Approval of Conversion Application

Notice is hereby given that on November 14, 2002, the Director, Supervision Policy, Office of Thrift Supervision (''OTS''), or her designee, acting pursuant to delegated authority, approved the application of First Niagara Financial Group, MHC, Lockport, New York, and First Niagara Bank, Lockport, New York, to convert to the stock form of organization. Copies of the application are available for inspection by appointment (phone number: 202–906–5922 or e-mail: *Public.Info@OTS.Treas.gov*) at the Public Reading Room, OTS 1700 G Street, NW., Washington, DC 20552, and the OTS Northeast Regional Office, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: November 15, 2002. By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 02–29527 Filed 11–20–02; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–12: OTS Nos. H–3799 and 12110]

Bridge Street Financial, Inc., and Oswego County Savings Bank, Oswego, New York; Approval of Conversion Application

Notice is hereby given that on November 14, 2002, the Director, Supervision Policy, Office of Thrift Supervision (''OTS''), or her designee, acting pursuant to delegated authority, approved the application of Oswego County Savings Bank, Oswego, New York, to convert to the stock form of organization. Copies of the application are available for inspection by appointment (phone number: 202–906–5922 or e-mail: *Public.Info@OTS.Treas.gov*) at the Public Reading Room, OTS, 1700 G Street, NW., Washington, DC 20552, and the OTS Northeast Regional Office, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: November 15, 2002.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 02–29526 Filed 11–20–02; 8:45 am]

BILLING CODE 6720–01–M

Corrections

Federal Register

Vol. 67, No. 225

Thursday, November 21, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 010222048–2243–05]

The Housing Foreclosure, Repossession, and Default Notices Exception to the Electronic Signatures in Global and National Commerce Act

Correction

In notice document 02–29025 beginning on page 69201 in the issue of Friday, November 15, 2002, make the following correction:

On page 69201, in the third column, under the **DATES** heading, in the third and fourth lines, ''[sixty (60) days after publication in the **Federal Register**]'' should read, ''January 14, 2003''.

[FR Doc. C2–29025 Filed 11–20–02; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

Correction

In notice document 02–28160 beginning on page 67625 in the issue of Wednesday, November 6, 2002, make the following corrections:

1. On page 27625, in the second column, under heading **1.**, in the third paragraph, in the second line, ''manufactures'' should read ''manufacturers''.

2. On the same page, in the same column, under the same heading, in the same paragraph, in the third line, ''imports'' should read ''importers''.

3. On page 67626, in the first table, in the column titled ''Burden hours'', in the second entry, ''8,500'' should read ''8,550''.

4. On the same page, in the first column, footnote 2 should appear directly below the first table.

5. On the same page, in the first column, in the first paragraph, in the first line, ''Staff[2]'' should read ''Staff''.

6. On page 67628, in the first column, footnote 8 should appear directly below the table.

7. On the same page, in the same column, in the first paragraph, in the first line, ''Staff[8]'' should read ''Staff''.

[FR Doc. C2–28160 Filed 11–20–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NE–12–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Model RB211 Turbofan Engines

Correction

In proposed rule document 02–28954 beginning on page 69160 in the issue of Friday, November 15, 2002, make the following correction:

On page 69160, in the second column, in the **DATES** section, in the second line, ''January 14, 2002'' should read, ''January 14, 2003''.

[FR Doc. C2–28954 Filed 11–20–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
November 21, 2002

Part II

The President

Executive Order 13277—Delegation of Certain Authorities and Assignment of Certain Functions Under the Trade Act of 2002

Federal Register
Vol. 67, No. 225
Thursday, November 21, 2002

Presidential Documents

Title 3—

The President

Executive Order 13277 of November 19, 2002

Delegation of Certain Authorities and Assignment of Certain Functions Under the Trade Act of 2002

By the authority vested in me as President by the Constitution and the laws of the United States, including the Trade Act of 2002 (the ''Act'') (Public Law 107–210) and section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. *Trade Promotion.* (a) Except as provided in subsections (b) and (c) of this section, the authorities granted to and functions specifically assigned to the President under Division B of the Act are delegated and assigned, respectively, to the United States Trade Representative (U.S. Trade Representative).

(b) The exercise of the following authorities of, and functions specifically assigned to the President, under Division B of the Act are reserved to the President:

(1) Section 2102(c)(1), (c)(6), (c)(10) and (e) of the Act;

(2) Section 2103(a)(1), (a)(4), (a)(6), b(1), (c)(1)(B)(i), and (c)(2) of the Act;

(3) Section 2105(a)(1) of the Act; and

(4) Section 2108(b) of the Act.

(c) (i) The Secretary of State, in consultation with the Secretary of Labor and the U.S. Trade Representative, shall carry out the functions of section 2102(c)(2) of the Act with respect to establishing consultative mechanisms. The U.S. Trade Representative, in consultation with the Secretary of State and the Secretary of Labor, shall carry out the reporting function under section 2102(c)(2).

(ii) The Secretary of State, in consultation with the U.S. Trade Representative, shall carry out the functions under section 2102(c)(3) of the Act with respect to establishing consultative mechanisms, with the advice and assistance of the Secretary of the Interior, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, the Secretary of Commerce and, as the Secretary of State determines appropriate, the heads of such other departments and agencies. The U.S. Trade Representative, in consultation with the Secretary of State, shall carry out the reporting function under section 2103(c)(3).

(iii) The U.S. Trade Representative shall carry out the functions under section 2102(c)(5) of the Act. The U.S. Trade Representative shall, in consultation with the Secretary of Labor, carry out the reporting function and the function of making a report available under section 2102(c)(5).

(iv) The Secretary of Labor shall carry out section 2102(c)(7) of the Act, in consultation with the Secretary of State.

(v) The Secretary of Labor, in consultation with the Secretary of State and the U.S. Trade Representative, shall carry out the functions under section 2102(c)(8) and (c)(9).

(vi) The Secretary of the Treasury shall carry out section 2102(c)(12) of the Act, including any appropriate consultations with the Congress relating thereto.

Sec. 2. *Andean Trade.* (a) Except as provided in subsection (b) of this section, the authorities granted and the functions specifically assigned to

the President under Division C of the Act are delegated and assigned respectively, to the U.S. Trade Representative, in consultation with the Secretaries of State, Commerce, the Treasury, and Labor.

(b) The exercise of the following authorities of, and functions specifically assigned to, the President under Division C of the Act are reserved to the President:

(i) The authority to proclaim under sections 204(b)(1) and 204(b)(3)(B)(ii), and the authority to designate beneficiary countries under section 204(b)(6)(B), of the Andean Trade Preference Act as amended by section 3103(a)(2) of the Act; and

(ii) The authority to make determinations under section 203(e)(1)(B) of the Andean Trade Preference Act as amended by section 3103(b) of the Act.

(c) The head of the executive department of which the United States Customs Service is a part shall take such actions to carry out determinations and actions pursuant to the Andean Trade Preference Act, as amended, as directed pursuant to the authority delegated to the U.S. Trade Representative under this order.

Sec. 3. *Guidance for Exercising Authority and Performing Duties.* (a) Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) In exercising authority delegated by, or performing functions assigned in, this order, and in performing duties related to the trade agreements program as defined in Executive Order 11846, officers of the United States:

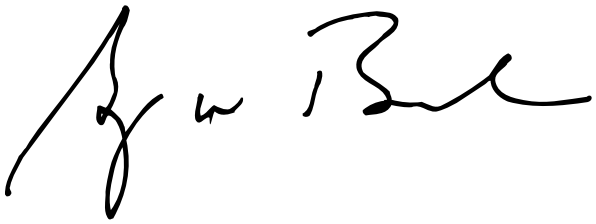
(i) Shall ensure that all actions taken by them are consistent with the President's constitutional authority to (A) conduct the foreign affairs of the United States, including the commencement, conduct, and termination of negotiations with foreign countries and international organizations, (B) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties, (C) recommend for congressional consideration such measures as the President may judge necessary or expedient, and (D) supervise the unitary executive branch;

(ii) May redelegate authority delegated by this order and may further assign functions assigned by this order to officers of any other department or agency within the executive branch to the extent permitted by law and such redelegation or further assignment shall be published in the **Federal Register**; and

(iii) Shall consult the Attorney General as appropriate in implementing this subsection.

Sec. 4. *Amendment to Executive Order 11846.* Section 1 of Executive Order 11846 of March 27, 1975, as amended, is further amended by inserting ", Divisions B and C of the Trade Act of 2002," after "Trade Expansion Act of 1962, as amended".

Sec. 5. *Judicial Review.* This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.



THE WHITE HOUSE,
November 19, 2002.

[FR Doc. 02–29832
Filed 11–20–02; 8:50 am]
Billing code 3195–01–P

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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S. 1210/P.L. 107–292
Native American Housing Assistance and Self-Determination Reauthorization Act of 2002 (Nov. 13, 2002; 116 Stat. 2053)

S. 2690/P.L. 107–293
To reaffirm the reference to one Nation under God in the Pledge of Allegiance. (Nov. 13, 2002; 116 Stat. 2057)

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