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Federal Register

2–25–03 Tuesday
Vol. 68 No. 37 Feb. 25, 2003
Pages 8703–8816

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Contents

Federal Register

Vol. 68, No. 37

Tuesday, February 25, 2003

Agriculture Department
See Food Safety and Inspection Service
See Forest Service

Alcohol and Tobacco Tax and Trade Bureau
NOTICES
Organization, functions, and authority delegations:
Subordinate officers, 8808–8812

Army Department
See Engineers Corps
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Nano-textured solid surfaces production method, 8743–8744

Centers for Disease Control and Prevention
NOTICES
Meetings:
Guide to Community Preventive Services Task Force, 8770

Centers for Medicare & Medicaid Services
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 8770–8771

Coast Guard
NOTICES
Meetings:
National Offshore Safety Advisory Committee, 8792

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Committee for the Implementation of Textile Agreements
NOTICES
Special access and special regime programs:
Participation denial—
House of Perfection, 8743

Customs Service
RULES
Merchandise entry:
Single entry for split shipments, 8713–8721
Uruguay Round Agreements Act:
Textile and apparel products; rules of origin, 8711–8713
NOTICES
Automation program test:
Remote Location Filing Prototype Two; eligibility requirements and application process, 8812–8813

Defense Department
See Army Department
See Engineers Corps
See Navy Department
RULES
Privacy Act; implementation, 8721–8722

Education Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 8746
Postsecondary education:
Student assistance general provisions—
School cohort default rate data; electronic delivery implementation, 8746–8747

Energy Department
See Federal Energy Regulatory Commission

Engineers Corps
NOTICES
Environmental statements; notice of intent:
Palm Beach County, FL—
Palm Beach Harbor Lake Worth Access Channel Expansion, Section 107 Small Navigation Project, 8744–8745
Meetings:
Estuary Habitat Restoration Council; cancelled, 8745

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Pennsylvania, 8723–8724
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Pennsylvania, 8727–8728
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 8751–8756
Meetings:
Gulf of Mexico Program Management Committee, 8756–8757
Reports and guidance documents; availability, etc.:
Corrective action activities completion at RCRA facilities, 8757–8764

Executive Office of the President
See Trade Representative, Office of United States

Farm Credit Administration
NOTICES
Farm credit system:
Loan policies and operations—
Loan syndication transactions, 8764
Meetings; Sunshine Act, 8764–8765

Federal Aviation Administration
RULES
Class E airspace, 8703–8707
Standard instrument approach procedures, 8707–8710
NOTICES
Passenger facility charges; applications, etc.:
Salt Lake City International Airport, UT, 8792–8793
Wilmington International Airport, NC, 8793–8794
Reports and guidance documents; availability, etc.:
Endurance test; policy statement, 8794

Transport category airplanes—
System, hardware, and software development assurance levels; demonstration, 8794

Federal Communications Commission
RULES
Radio stations; table of assignments:
Colorado, 8725
Texas, 8724
PROPOSED RULES
Radio stations; table of assignments:
Nebraska, 8730
Nebraska and Iowa, 8728
Oklahoma, 8729
South Carolina, 8728–8729
Various States, 8729
NOTICES
Meetings; Sunshine Act, 8765

Federal Deposit Insurance Corporation
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 8765

Federal Energy Regulatory Commission
RULES
Natural gas companies (Natural Gas Act):
Natural gas pipelines; project cost and annual limits, 8710–8711
NOTICES
Hydroelectric applications, 8751
Applications, hearings, determinations, etc.:
Cargill Power Markets, LLC, 8747–8750

Federal Law Enforcement Training Center
NOTICES
Meetings:
National Center for State and Local Law Enforcement Training Advisory Committee, 8813–8814

Federal Motor Carrier Safety Administration
NOTICES
Motor carrier safety standards:
Driver qualifications—
Parker, Jerry; vision requirement exemption, etc., 8794–8798
Graduated commercial driver's licensing; qualifications, testing, and licensing standards, 8798–8800

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 8765–8766
Formations, acquisitions, and mergers, 8766
Permissible nonbanking activities, 8766

Federal Trade Commission
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 8766–8767
Prohibited trade practices:
Dainippon Ink & Chemicals, Inc., 8767–8769

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Critical habitat designations—
Cactus ferruginous pygmy-owl; Arizona distinct population segment, 8730–8731

Food and Drug Administration
NOTICES
Meetings:
Arthritis Advisory Committee, 8771–8772
Reports and guidance documents; availability, etc.:
Comparability protocols—chemistry, manufacturing, and controls information, 8772–8773
Medical devices—
User fee rates and interim procedures, 8773–8775
Part 11, electronic records, electronic signatures—scope and application, 8775–8776

Food Safety and Inspection Service
NOTICES
Meetings:
Listeria risk management; correction, 8737

Forest Service
NOTICES
Meetings:
Resource Advisory Committees—
Deschutes and Ochoco National Forests, 8737

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See Health Resources and Services Administration
NOTICES
Meetings:
Bioethics, President's Council, 8769–8770

Health Resources and Services Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 8777
Meetings:
Childhood Vaccines Advisory Committee, 8777–8778

Housing and Urban Development Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 8778

Immigration and Naturalization Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 8784–8785

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Minerals Management Service
See National Park Service

Internal Revenue Service
NOTICES
Meetings:
Restaurant and bar employees and employers; tip reporting and tax responsibilities, 8814
Taxpayer Advocacy Panels, 8814–8815

International Trade Administration
NOTICES
Antidumping:
Lawn and garden steel fence posts from—
China, 8737–8738
Export trade certificates of review, 8738–8739

International Trade Commission
NOTICES
Import investigations:
Saccharin from—
China, 8783–8784

Justice Department
See Immigration and Naturalization Service

Labor Department
See Labor-Management Standards Office
See Labor Statistics Bureau

Labor-Management Standards Office
PROPOSED RULES
Labor-management standards:
Labor organization annual financial reports, 8727

Labor Statistics Bureau
NOTICES
Meetings:
Federal Economic Statistics Advisory Committee, 8785

Land Management Bureau
NOTICES
Committees; establishment, renewal, termination, etc.:
California Desert District Advisory Council, 8778–8779
Resource Advisory Committees, 8779–8780
Meetings:
Resource Advisory Committees—
Roseberg District, 8780
Practice and procedure:
Eastern States; temporary closure office/remodeling, 8780–8781

Maritime Administration
NOTICES
Voluntary Intermodal Sealift Agreement; extension, 8800–8808

Minerals Management Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 8781–8782

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Rock sole, flathead sole, and other flatfish, 8726
PROPOSED RULES
Fishery conservation and management:
Northeastern United States fisheries—
Northeast multispecies, 8731–8736
NOTICES
Meetings:
Pacific Fishery Management Council, 8740–8741
Permits:
Exempted fishing, 8741–8743

National Park Service
NOTICES
Environmental statements; availability, etc.:
Denali National Park and Preserve, AK, 8782–8783

Navy Department
NOTICES
Environmental statements; notice of intent:
Avon Park Air Force Range, FL; Navy air-to-ground training, 8745–8746

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 8785–8786

Office of United States Trade Representative
See Trade Representative, Office of United States

Patent and Trademark Office
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 8743

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange LLC, 8787–8788
Chicago Stock Exchange, Inc., 8788–8789
OneChicago, LLC, 8789–8790
Philadelphia Stock Exchange, Inc., 8790
Applications, hearings, determinations, etc.:
Cabot Industrial Properties, L.P., 8786
Chiquita Brands International, Inc., 8786–8787

State Department
NOTICES
Meetings:
Shipping Coordinating Committee, 8790–8791
Passport travel restrictions, U.S.:
Iraq, 8791

Surface Transportation Board
RULES
Organization, functions, and authority delegations:
Board Chairman et al., 8725–8726

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Trade Representative, Office of United States
NOTICES
Andean Trade Promotion and Drug Eradication Act:
Beneficiary countries; eligibility criteria, 8791–8792

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See Maritime Administration
See Surface Transportation Board

Treasury Department
See Alcohol and Tobacco Tax and Trade Bureau
See Customs Service
See Federal Law Enforcement Training Center
See Internal Revenue Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 8808

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

14 CFR
71 (4 documents) ...8703, 8704, 8705, 8706
97 (2 documents) 8707, 8709

18 CFR
157.....8710

19 CFR
102.....8711
141.....8713
142.....8713

29 CFR
Proposed Rules:
403.....8727
408.....8727

32 CFR
311.....8721

40 CFR
52.....8723
Proposed Rules:
52.....8727

47 CFR
73 (2 documents) 8724, 8725
Proposed Rules:
73 (5 documents) ...8728, 8729, 8730

49 CFR
1011.....8725

50 CFR
679.....8726
Proposed Rules:
17.....8730
648.....8731

Rules and Regulations

Federal Register
Vol. 68, No. 37
Tuesday, February 25, 2003

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.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14458; Airspace Docket No. 03–ACE–11]

Modification of Class E Airspace; Larned, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: An examination of controlled airspace for Larned, KS revealed a discrepancy in the Larned-Pawnee County Airport, KS airport reference point used in the legal description for the Larned, KS Class E airspace. This action corrects the discrepancy by modifying the Larned, KS Class E airspace and by incorporating the current Larned-Pawnee County Airport, KS airport reference point in the Class E airspace legal description.

DATES: This direct final rule is effective on 0901 UTC, May 15, 2003.

Comments for inclusion in the Rules Docket must be received on or before March 25, 2003.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–14458/Airspace Docket No. 03–ACE–11, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet or more above the surface at Larned, KS. It incorporates the current airport reference point for Larned—Pawnee County Airport, KS and brings the legal description of this airspace area into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comments is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamp postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–14458/Airspace Docket No. 03–ACE–11'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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.

List of Subjects in 14 CFR Part 71

Airspace Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 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, 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.

ACE KS E5 Larned, KS

Larned-Pawnee County Airport, KS
(Lat. 38°12′31″ N., long. 99°05′10″ W.)
Larned NDB
(Lat. 38°12′16″ N., long. 99°05′15″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Larned-Pawnee County Airport and within 2.6 miles each side of the 003° bearing from the Larned NDB extending from the 6-mile radius to 7 miles north of the airport.

* * * * *

Issued in Kansas City, MO on February 10, 2003.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 03–4321 Filed 2–24–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14457; Airspace Docket No. 03–ACE–10]

Modification of Class E Airspace; Herington, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: An examination of controlled airspace for Herington, KS revealed a discrepancy in the Herington Regional Airport, KS airport reference point used in the legal description for the Herington, KS Class E airspace. This action corrects the discrepancy by modifying the Herington, KS Class E airspace and by incorporating the current Herington Regional Airport, KS airport reference point in the Class E airspace legal description.

DATES: This direct final rule is effective on 0901 UTC, May 15, 2003.

Comments for inclusion in the Rules Docket must be received on or before March 25, 2003.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 205900–0001. You must identify the docket number FAA–2003–14457/ Airspace Docket No. 03–ACE–10, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, and comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet or more above the surface at Herington, KS. It incorporates the current airport reference point Herington Regional Airports, KS and brings the legal description of this airspace area into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis support the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–14457/Airspace Docket No. 03–ACE –10'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) Is not a ''significant

regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 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, 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.

* * * * *

ACE KS E5 Herington, KS

Herington Regional Airport, KS
(Lat. 39°41′41″ N., long. 96°48′29″ W.)
Herington NDB
(Lat. 38°41′34″ N., long. 96°48′40″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Herington Regional Airport, and within 2.6 miles each side of the 010° bearing from the Herington NDB extending from the 6.6-mile radius to 7.4 miles north of the airport and within 2.6 miles each side of the 168° bearing from the Herington NDB extending from 6.6-mile radius to 7.4 miles southeast of the airport.

* * * * *

Issued in Kansas City, MO on February 10, 2003.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 03–4322 Filed 2–24–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR 71

[Docket No. FAA–2003–14429; Airspace docket No. 03–ACE–9]

Modification of Class E Airspace; Cherokee, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: An examination of controlled airspace for Cherokee, IA revealed a discrepancy in the Cherokee Municipal Airport, IA airport reference point used in the legal description for the Cherokee, IA Class E airspace. This action corrects the discrepancy by modifying the Cherokee, IA Class E airspace and by incorporating the current Cherokee Municipal Airport, IA airport reference point in the Class E airspace legal description.

DATES: This direct final rule is effective on 0901 UTC, May 15, 2003.

Comments for inclusion in the Rules Docket must be received on or before March 25, 2003.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–14429/Airspace Docket No. 03–ACT–9, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF building at the above address.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C DOT Regional Headquarters Building, Federal aviation Administration, 901 Locust, Kansas city, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet or more above the surface at Cherokee, IA. It incorporates the current airport reference point for Cherokee Municipal airport, IA and brings the legal description of this airspace area in compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–14429/Airspace Docket No. 03–ACE–9.'' The postcard

will be date/time stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on an substantial number of small entities under the criteria of the regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 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, 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.

* * * * *

ACE IA E5 Cherokee, IA

Cherokee Municipal Airport, IA
(Lat. 42°43′53″ N., long. 95°33′22″ W.)
Pilot Rock NDB
(Lat. 42°43′56″ N., long. 95°33′11″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Cherokee Municipal Airport, and within 2.6 miles each side of the 185° bearing from the Pilot Rock NDB extending from the 6-mile radius to 7.4 miles south of the airport.

* * * * *

Dated: Issued in Kansas City, MO on February 10, 2003.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 03–4323 Filed 2–24–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No.FAA–2003–14459; Airspace Docket No. 03–ACE–12]

Modification of Class E Airspace; Clarinda, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: An examination of controlled airspace for Clarinda, IA revealed a discrepancy in the Clarinda, Schenck Field, IA airport reference point used in the legal description for the Clarinda, IA Class E airspace. This action corrects the discrepancy by modifying the Clarinda, IA Class E airspace and by incorporating the current Clarinda, Schenck Field, IA airport reference point in the Class E airspace legal description.

DATES: This direct final rule is effective on 0901 UTC, May 15, 2003.

Comments for inclusion in the Rules Docket must be received on or before March 25, 2003.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–14459/ Airspace Docket No. 03–ACE–12, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone (816) 329–2525.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 modifies the Class E airspace area extending upward from 700 feet or more above the surface at Clarinda, IA. It incorporates the current airport reference point for Clarinda, Schenck Field, IA and brings the legal description of this airspace area into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic,

environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–14459/Airspace Docket No. 03–ACE–12'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 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, 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.

* * * * *

ACE IA E5 Clarinda, IA

Clarinda, Schenck Field, IA
(Lat. 40°43′18″ N., long. 95°01′35″ W.)
Clarinda NDB
(Lat. 40°43′36″ N., long. 95°01′39″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Schenck Field and within 2.6 miles each side of the 170° bearing from the Clarinda NDB extending from the 6.5-mile radius to 7 miles south of the airport.

* * * * *

Issued in Kansas City, MO, on February 10, 2003.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 03–4324 Filed 2–24–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30356; Amdt. No. 3046]

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.

EFFECTIVE DATE: This rule is effective February 25, 2003. 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 February 25, 2003.

ADDRESSES: Availability of matter 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 affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

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, US 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 on 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 documents 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 designated 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, were 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 CFR Part 97

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

Issued in Washington, DC on February 14, 2003.

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 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

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 No.	Subject
01/27/03	MI	Bay City	James Clements Muni	3/0688	RNAV (GPS) Rwy 18, Orig.
01/30/03	PA	Harrisburg	Capital City	3/0748	ILS Rwy 8, Amdt 10E.
01/30/03	CA	Chico	Chico Muni	3/0761	VOR/DME Rwy 31R, Orig-C.
01/30/03	CA	San Francisco	San Francisco Intl	3/0770	VOR Rwy 19L, Amdt 8B.
01/30/03	KY	Prestonburg	Sandy Regional	3/0779	RNAV (GPS) Rwy 21, Orig.
01/30/03	AL	Albertville	The Albertville Muni-Thomas J. Brumlik Field.	3/0781	RNAV (GPS) Rwy 23, Orig.
01/30/03	AL	Albertville	The Albertville Muni-Thomas J. Brumlik Field.	3/0782	NDB–A, Amdt 4.
01/30/03	SC	Anderson	Anderson Regional	3/0785	ILS Rwy 5, Orig–A.
01/30/03	SC	Anderson	Anderson Regional	3/0786	VOR Rwy 5, Amdt 9B.
01/31/03	NC	Morganton	Morganton-Lenoir	3/0821	LOC Rwy 3, Orig–B.
01/31/03	OH	Cleveland	Cleveland-Hopkins Intl	3/0838	ILS Rwy 6L, Orig–A.
01/31/03	OH	Cleveland	Cleveland-Hopkins Intl	3/0839	ILS Rwy 24R, Orig.
02/05/03	NY	White Plains	Westchester County	3/0927	ILS Rwy 16, Amdt 22E.
02/05/03	NM	Silver City	Grant County	3/1008	LOC/DME Rwy 26, Amdt 4C.
02/06/03	AR	Jonesboro	Jonesboro Muni	3/1044	ILS Rwy 23, Orig.
02/07/03	IL	Moline	Quad City Intl	3/1157	ILS Rwy 27, Orig–C.
02/07/03	IL	Moline	Quad City Intl	3/1159	ILS Rwy 9, Amdt 29D.
02/07/03	IL	Moline	Quad City Intl	3/1161	NDB OR GPS Rwy 9, Amdt 27D.
02/10/03	MI	Pontiac	Pontiac/Oakland Intl	3/1148	ILS Rwy 9R, Amdt 11A.
02/10/03	MI	Pontiac	Pontiac/Oakland Intl	3/1149	LOC BC Rwy 27L, Orig–A.
02/11/03	WA	Bellingham	Bellingham Intl	3/1174	NDB Rwy 16, Amdt 1.
02/11/03	WA	Bellingham	Bellingham Intl	3/1175	ILS Rwy 16, Amdt 4.

FDC date	State	City	Airport	FDC No.	Subject
02/12/03	ND	Rugby	Rugby Muni	3/1196	NDB Rwy 30, Amdt 6.
02/12/03	PA	Somerset	Somerset County	3/1211	GPS Rwy 6, Orig.
02/12/03	PA	Somerset	Somerset County	3/1213	LOC Rwy 24, Amdt 3.
02/12/03	PA	Somerset	Somerset County	3/1214	LOC Rwy 24, Amdt 5.
02/12/03	PA	Somerset	Somerset County	3/1214	NDB Rwy 24, Amdt 5.

[FR Doc. 03–4320 Filed 2–24–03; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30355; Amdt. No. 3045]

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 February 25, 2003. 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 February 25, 2003.

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 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 documents 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 CFR Part 97

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

Issued in Washington, DC on February 14, 2003.

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 continues to read as follows:

Authority: 49 U.S.C. 106(g), 4103, 4106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

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, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective March 20, 2003*

Ontario, CA, Ontario Intl, VOR/DME RWY 8L, Amdt 1
Ontario, CA, Ontario Intl, VOR/DME RWY 8R, Orig
Wray, CO, Wray Muni, RNAV (GPS) RWY 17, Orig
Wray, CO, Wray Muni, RNAV (GPS) RWY 34, Orig
Wray, CO, Wray Muni, GPS RWY 14, ORIG, CANCELLED
Wray, CO, Wray Muni, RNAV (GPS) RWY 35, Orig
Sault Ste Marie, MI, Chippewa County Intl, VOR OR TACAN–A, Amdt 6
Sault Ste Marie, MI, Chippewa County Intl, NDB RWY 16, Amdt 6
Sault Ste Marie, MI, Chippewa County Intl, NDB RWY 34, Amdt 5
Sault Ste Marie, MI, Chippewa County, ILS RWY 16, Amdt 8
Sault Ste Marie, MI, Chippewa County Intl, RNAV (GPS) RWY 16, Orig
Sault Ste Marie, MI, Chippewa County Intl, RNAV (GPS) RWY 34, Orig
Crete, NE, Crete Municipal, VOR/DME RWY 17, Amdt 3C
Crete, NE, Crete Municipal, RNAV (GPS) RWY 17, Orig
Beaufort, NC, Michael J. Smith Field, NDB RWY 14, Orig–B
Beaufort, NC, Michael J. Smith Field, NDB RWY 21, Orig–B
Beaufort, NC, Michael J. Smith Field, RADAR–1, Amdt 2, CANCELLED
Beaufort, NC, Michael J. Smith Field, RNAV (GPS) RWY 3, Orig
Beaufort, NC, Michael J. Smith Field, RNAV (GPS) RWY 8, Orig
Beaufort, NC, Michael J. Smith Field, RNAV (GPS) RWY 14, Orig–B
Beaufort, NC, Michael J. Smith Field, RNAV (GPS) RWY 21, Orig
Beaufort, NC, Michael J. Smith Field, RNAV (GPS) RWY 26, Orig
Beaufort, NC, Michael J. Smith Field, RNAV (GPS) RWY 32, Orig
Elizabeth City, NC, Elizabeth City Coast Guard Air Station/Regional, RNAV (GPS) RWY 1, Orig
Elizabeth City, NC, Elizabeth City Coast Guard Air Station/Regional, RNAV (GPS) RWY 19, Orig
Elizabeth City, NC, Elizabeth City Coast Guard Air Station/Regional, RNAV (GPS) RWY 28, Orig
Elizabeth City, NC, Elizabeth City Coast Guard Air Station/Regional, VOR/DME RWY 28, Amdt 1
Elizabeth City, NC, Elizabeth City Coast Guard Air Station/Regional, VOR/DME RWY 1, Amdt 11C
Elizabeth City, NC, Elizabeth City Coast Guard Air Station/Regional, VOR/DME RWY 10, Orig–C
Elizabeth City, NC, Elizabeth City Coast Guard Air Station/Regional, VOR/DME RWY 19, Amdt 10C
Elizabeth City, NC, Elizabeth City Coast Guard Air Station/Regional, NDB RWY 10, Orig–D
Oak Island, NC, Brunswick County, NDB–A, Orig
Oak Island, NC, Brunswick County, NDB RWY 23, Orig
Oak Island, NC, Brunswick County, RNAV (GPS) RWY 5, Orig
Oak Island, NC, Brunswick County, RNAV (GPS) RWY 23, Orig
Southport, NC, Brunswick County, NDB RWY 23, Orig, CANCELLED
Southport, NC, Brunswick County, NDB–A, Orig, CANCELLED
Southport, NC, Brunswick County, GPS RWY 23, Amdt 1, CANCELLED
Wilson, NC, Wilson Industrial Air Center, NDB RWY 3, Amdt 6A
Wilson, NC, Wilson Industrial Air Center, NDB RWY 21, Amdt 1C
Wilson, NC, Wilson Industrial Air Center, RNAV (GPS) RWY 3, Orig
Wilson, NC, Wilson Industrial Air Center, RNAV (GPS) RWY 9, Orig
Wilson, NC, Wilson Industrial Air Center, RNAV (GPS) RWY 15, Orig
Wilson, NC, Wilson Industrial Air Center, RNAV (GPS) RWY 21, Orig
Wilson, NC, Wilson Industrial Air Center, RNAV (GPS) RWY 33, Orig
Knoxville, TN, McGhee Tyson, RNAV (GPS) RWY 5R, Orig
Knoxville, TN, McGhee Tyson, RNAV (GPS) RWY 23L, Orig
Oak Harbor, WA, Wes Lupien, RADAR–2, Orig, CANCELLED

** * * Effective April 17, 2003*

Houston, TX, Clover Field, VOR–B, Orig
Houston, TX, Clover Field, VOR–A, Amdt 1, CANCELLED

** * * Effective May 15, 2003*

New Smyrna Beach, FL, Massey Ranch Airpark, NDB OR GPS RWY 18, Amdt 1
Orlando, FL, Orlando Intl, VOR/DME RWY 36L, Amdt 5
Sulphur Springs, TX, Sulphur Springs Muni, NDB RWY 18, Amdt 5, CANCELLED

The FAA published an Amendment in Docket No. 30350, Amdt No. 3041 to Part 97 of the Federal Aviation Regulations (Vol_68 FR No. 17 Page 3811 dated January 27, 2003) under section 97._33 effective 20 March 2003, which is hereby amended as follows:

The following procedure published in TL 03–4 is hereby RESCINDED:

Isla De Vieques, PR, Antonio Rivera Rodriguez, RNAV (GPS) RWY 9, Amdt 1

[FR Doc. 03–4319 Filed 2–24–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM81–19–000]

Natural Gas Pipelines; Project Cost and Annual Limits

January 30, 2003.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.308(x)(1), the Director of the Office of Energy Projects (OEP) computes and publishes the project cost and annual limits for natural gas pipelines blanket construction certificates for each calendar year.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Michael J. McGehee, Division of Pipeline Certificates, (202) 502–8962.

Order of the Director, OEP

Section 157.208(d) of the Commission's Regulations provides for project cost limits applicable to construction, acquisition, operation and miscellaneous rearrangement of facilities (Table I) authorized under the blanket certificate procedure (Order No. 234, 19 FERC ¶ 61,216). Section

157.215(a) specifies the calendar year dollar limit which may be expended on underground storage testing and development (Table II) authorized under the blanket certificate. Section 157.208(d) requires that the ''limits specified in Tables I and II shall be adjusted each calendar year to reflect the 'GDP implicit price deflator' published by the Department of Commerce for the previous calendar year.''

Pursuant to § 375.308(x)(1) of the Commission's Regulations, the authority for the publication of such cost limits, as adjusted for inflation, is delegated to the Director of the Office of Energy Projects. The cost limits for calendar year 2003, as published in Table I of § 157.208(d) and Table II of § 157.215(a), are hereby issued.

List of Subjects in 18 CFR Part 157

Administrative practice and procedure, Natural Gas, Reporting and recordkeeping requirements.

J. Mark Robinson,

Director, Office of Energy Projects.

Accordingly, 18 CFR part 157 is amended as follows:

PART 157—[AMENDED]

1. The authority citation for part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

2. Table I in § 157.208(d) is revised to read as follows:

§ 157.208 Construction, acquisition, operation, replacement, and miscellaneous rearrangement of facilities.

* * * * *

(d) * * *

TABLE I

Year	Limit	
	Auto. proj. cost limit (Col. 1)	Prior notice proj. cost limit (Col. 2)
1982	$4,200,000	$12,000,000
1983	4,500,000	12,800,000
1984	4,700,000	13,300,000
1985	4,900,000	13,800,000
1986	5,100,000	14,300,000
1987	5,200,000	14,700,000
1988	5,400,000	15,100,000
1989	5,600,000	15,600,000
1990	5,800,000	16,000,000
1991	6,000,000	16,700,000
1992	6,200,000	17,300,000
1993	6,400,000	17,700,000
1994	6,600,000	18,100,000
1995	6,700,000	18,400,000
1996	6,900,000	18,800,000

TABLE I—Continued

Year	Limit	
	Auto. proj. cost limit (Col. 1)	Prior notice proj. cost limit (Col. 2)
1997	7,000,000	19,200,000
1998	7,100,000	19,600,000
1999	7,200,000	19,800,000
2000	7,300,000	20,200,000
2001	7,400,000	20,600,000
2002	7,500,000	21,000,000
2003	7,600,000	21,200,000

* * * * *

3. Table II in § 157.215(a) is revised to read as follows:

§ 157.215 Underground storage testing and development.

(a) * * *

(5) * * *

TABLE II

Year	Limit
1982	$2,700,000
1983	2,900,000
1984	3,000,000
1985	3,100,000
1986	3,200,000
1987	3,300,000
1988	3,400,000
1989	3,500,000
1990	3,600,000
1991	3,800,000
1992	3,900,000
1993	4,000,000
1994	4,100,000
1995	4,200,000
1996	4,300,000
1997	4,400,000
1998	4,500,000
1999	4,550,000
2000	4,650,000
2001	4,750,000
2002	4,850,000
2003	4,900,000

* * * * *

[FR Doc. 03–4336 Filed 2–24–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 102

[T.D. 03–08]

RIN 1515–AC80

Rules of Origin for Textile and Apparel Products

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with a clarification, the interim rule amending the Customs Regulations to align the existing country of origin rules for certain textile and apparel products with the statutory amendments to section 334 of the Uruguay Round Agreements Act, as set forth in section 405 within title IV of the Trade and Development Act of 2000. The document also adopts as final the interim rule making technical corrections to the rules of origin for textile and apparel products.

EFFECTIVE DATE: February 25, 2003.

FURTHER INFORMATION CONTACT: Cynthia Reese, Textile Branch, Office of Regulations and Rulings, U.S. Customs Service, Tel. (202) 572–8790.

SUPPLEMENTARY INFORMATION:

Background

Section 334 of the Uruguay Round Agreements Act (URAA), Public Law 103–465, 108 Stat. 4809 (19 U.S.C. 3592), directs the Secretary of the Treasury to prescribe rules implementing certain principles for determining the origin of textiles and apparel products. Section 102.21 of the Customs Regulations (19 CFR 102.21) implements section 334 of the URAA.

Section 405 of title IV of the Trade and Development Act of 2000 (the Act), Public Law 106–200, 114 Stat. 251, amended section 334 of the URAA. Specifically, section 405(a) amended section 334(b)(2) of the URAA by redesignating paragraphs (b)(2)(A) and (B) as paragraphs (b)(2)(A)(i) and (ii), and by adding two special rules at new paragraphs (b)(2)(B) and (C) that change the rules of origin for certain fabrics and made-up textile products.

Under section 334, certain fabrics, silk handkerchiefs and scarves were considered to originate where the base fabric was knit or woven, notwithstanding any further processing. As a result of the statutory amendment to section 334 effected by section 405 of the Act, the processing operations which may confer origin on certain textile fabrics and made-up articles were changed to include dyeing, printing and two or more finishing operations. In particular, the amendment to section 334 affected the processing operations which may confer origin on fabrics classified under the Harmonized Tariff Schedule of the United States (HTSUS) as of silk, cotton, man-made fibers or vegetable fibers.

On May 1, 2001, Customs published in the **Federal Register** (66 FR 21660), as T.D. 01–36, an interim rule amending

§ 102.21 to implement the rules of origin for the textile products specified in section 405(a) of the Act. On May 10, 2001, a correction to T.D. 01–36 was published in the **Federal Register** (66 FR 23981). On August 9, 2002, Customs published in the **Federal Register** (67 FR 51751), as T.D. 02–47, another interim rule which made technical corrections to § 102.21 to reflect the terms of the 2002 Harmonized Tariff Schedule of the United States within the country of origin rules for certain textile and apparel products, as well as a correction regarding the scope of the definition of the term ''textile or apparel product''. Because T.D. 02–47 was a technical correction document, no comments were requested. Comments were requested in T.D. 01–36.

Discussion of Comments

Two commenters responded to the solicitation of public comment published in T.D. 01–36. A description of the comments received, together with Customs analyses, is set forth below.

Comment: One commenter suggested that the interim amendments to § 102.21 of the Customs Regulations be changed in regard to certain textile fabrics and made-up articles by removing the requirement that dyeing, printing and finishing of fabric need to occur in order to confer origin. The commenter proposed that, instead, the rule should require that either dyeing and finishing of fabric or printing and finishing of fabric should confer origin. The commenter noted that the recommended change reflects a more common industry practice.

The commenter also requested that Customs amend the interim § 102.21 to change how origin is determined for embroideries. The commenter deemed it unfair in the case of embroideries to adhere to the principle that only the fabric-making process confers origin when the principle has been abandoned for fabrics. The commenter asserts that as the origin rules for fabric that existed prior to the implementation of section 334 have been reintroduced, the same treatment should be accorded to embroideries.

Customs Response: Section 405(a)(3) of the Act states that dyeing and printing, when accompanied by two or more of specified finishing operations, will confer origin to fabric classified under the HTSUS as of silk, cotton, man-made fiber, or vegetable fiber. The same standard is used to determine origin for specified made-up textile articles. Section 405 contains no reference to embroideries, and Customs is following the language and requirements specified by Congress.

Comments: One commenter requested that Customs clarify the application of interim rule § 102.21(e) for purposes of determining the origin of down comforters and featherbeds, with outer shells of cotton, respectively classifiable under HTSUS subheadings 9404.90.8505 and 9404.90.9505. The commenter interpreted the interim rule as requiring that origin determinations for these goods be based on where the fabric comprising the outer shell is formed and seeks confirmation of that interpretation.

Customs response: Customs agrees with the commenter's interpretation. Section 102.21(e)(2)(i), Customs Regulations, provides, in pertinent part, that the country of origin of goods of HTSUS subheadings 9404.90.85 and 9404.90.95 is the country, territory or insular possession in which the fabric comprising the good was both dyed and printed when accompanied by two or more of specified finishing operations, except for goods classified under those subheadings as of cotton or of wool or consisting of fiber blends containing 16 percent or more by weight of cotton.

Down comforters with outer shells of cotton are classifiable in subheading 9404.90.85, HTSUS, based on a determination that the down component imparts the essential character to the comforter and is therefore the component that determines classification at the eight-digit subheading level. Similarly, down featherbeds with outer shells of cotton are classified in subheading 9404.90.95, HTSUS. *See PillowTex Corp.* v. *United States*, 983 F. Supp. 188 (CIT 1997), *aff'd*, 171 F.3d 1370 (CAFC 1999).

Goods classified under HTSUS subheadings 9404.90.85 (quilts, eiderdowns, comforters and similar articles) and 9404.90.95 (other) are classified at the ultimate statistical level based on the fiber composition of the outer shell fabric. It is for this reason that down comforters and featherbeds with outer shells of cotton are subject to the exclusion set forth in § 102.21(e)(2). Accordingly, origin for these goods is determined pursuant to the rule set forth in § 102.21(e)(1); *i.e.*, origin is conferred in the country in which the fabric comprising the good is formed by a fabric-making process.

It is noted that prior to enactment of section 405, the origin of all goods of HTSUS subheading 9404.90 was the country in which the fabric comprising the good was formed by a fabric-making process. As a result of the statutory amendment to section 334 effected by section 405, the processing operations that confer origin on certain textile fabrics and made-up articles were changed to include dyeing, printing and two or more finishing operations. Customs is of the view that the exclusion of certain goods classified under HTSUS subheadings 9404.90.85 and 9404.90.95, which include down comforters and featherbeds with outer shells of cotton, of wool, or consisting of fiber blends containing 16 percent or more by weight of cotton, from the dyeing, printing and finishing origin rule, is indicative of Congress' focus on the fiber content of the fabric comprising these goods. In this regard, the Conference Report to the Act states:

> In particular, this dyeing and printing rule would apply to fabrics classified under the Harmonized Tariff Schedule (HTS) as silk, cotton, man-made and vegetable fibers. The rule would also apply to the various products classified in 18 specific subheadings of the HTS listed in the bill, except for goods made from cotton, wool, or fiber blends containing 16 percent or more of cotton.

As the fabric comprising the good in a down comforter with an outer shell of cotton is the cotton fabric of the outer shell, Customs agrees with the commenter that down comforters and down featherbeds with outer shells of cotton are precluded from application of § 102.21(e)(2) and are to have their origin determined based upon the tariff shift rule set forth in § 102.21(e)(1). The fact that the ultimate classification of down comforters and featherbeds with outer shells of cotton is dependent on the fiber content of the fabric of the outer shell offers support for this conclusion.

Further Customs Analysis

Customs has determined that no changes are necessary to the interim rules, published as T.D. 01–36 and T.D. 02–47, based on these comments. However, it has come to Customs attention, upon further review of T.D. 01–36, that clarification is needed regarding the application of § 102.21(e)(2)(i), (ii) and (iii) in determining the origin of goods of HTSUS subheading 6117.10. The rules set forth in § 102.21(e)(2) are to be applied hierarchically. The rule set forth in § 102.21(e)(2)(i) clearly applies to goods of HTSUS subheading 6117.10, and it is only if the origin of the good cannot be ascertained by application of the rule that the subsequent rules set forth in § 102.21(e)(2)(ii) and (iii) become relevant. The rule set forth in § 102.21(e)(ii) contains an exception for goods of HTSUS subheading 6117.10 that are knit to shape or consist of two or more component parts, so that the rule does not apply to such goods of that subheading. Accordingly, the origin of these goods, if not determinable under

§ 102.21(e)(i), must be determined by application of § 102.21(e)(2)(iii).

For example, if a man-made fiber scarf of HTSUS subheading 6117.10 consisted of two or more component parts and all of the fabric from which the component parts were formed was dyed and printed and finished as specified in § 102.21(e)(2)(i), the origin of the scarf would be ascertained under § 102.21(e)(2)(i); that is, it would be the country in which the fabric was dyed and printed and finished. However, if the fabric of the scarf was only dyed and finished, then § 102.21(e)(2)(i) would not apply and origin would be determined pursuant to § 102.21(e)(2)(iii).

In order to clarify the application of the rules set forth in § 102.21(e)(2), Customs is amending § 102.21(e)(2)(iii) as set forth in T.D. 01–36 to provide that § 102.21(e)(2)(iii) should be applied if the country of origin cannot be determined under § 102.21(e)(2)(i).

Non-substantive editorial changes are also made to paragraph (e)(2)(ii), and the introductory text to paragraph (e)(2)(iii) of the interim rule, whereby the references to ''(i) above'' in both paragraphs are replaced by the more specific cite to ''paragraph (e)(2)(i) of this section.''

It has also come to Customs attention that there may be some confusion as to whether certain finishing operations qualify under § 102.21(e)(2)(i) for purposes of determining the country of origin of certain goods. The finishing operations listed in § 102.21(e)(2)(i) are listed in section 405(a)(3) of the Act and Customs has no authority to deviate from this list to allow other processes to effect an origin determination. However, Customs does recognize that different terms may be used in the textile industry to refer to the same process. Accordingly, Customs will entertain arguments through the rulings procedure as to whether finishing processes referred to by different terms are identical to the named processes.

Conclusion

In accordance with the discussion set forth above, Customs has determined to adopt as a final rule the interim rule published in the **Federal Register** (66 FR 21660) on May 1, 2001, as T.D. 01–36, with the correction published in the **Federal Register** (66 FR 23981) on May 10, 2001, and the interim rule published in the **Federal Register** (67 FR 51751) on August 9, 2002, as T.D. 02–47.

Inapplicability of Delayed Effective Date

These regulations serve to align the Customs Regulations with the statutory amendments to section 334 of the URAA, as set forth in section 405 within title IV of the Act, which went into effect May 18, 2000, and with the 2002 Harmonized Tariff Schedule of the United States. The regulatory amendments inform the public of changes to the processing operations deemed necessary to confer country of origin status to certain textile fabrics or made-up articles by way of amendment to the tariff shift rules applicable to select textile goods. For these reasons, Customs has determined, pursuant to the provisions of 5 U.S.C. 553(d)(3), that there is good cause for dispensing with a delayed effective date.

The Regulatory Flexibility Act and Executive Order 12866

Because these amendments serve to conform the Customs Regulations to reflect statutory amendments, pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that these amendments will not have a significant impact on a substantial number of small entities. Further, these amendments do not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

Drafting Information

The principal author of this document was Ms. Suzanne Kingsbury, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 102

Customs duties and inspection, Imports, Rules of Origin, Trade agreements.

Amendment to the Regulations

For the reasons stated above, the interim rule amending § 102.21 of the Customs Regulations (19 CFR 102.21) which was published at 66 FR 21660—21664 on May 1, 2001, and corrected at 66 FR 23981 on May 10, 2001, and the interim rule which was published at 67 FR 51751—51752 on August 9, 2002, are adopted as a final rule with the changes set forth below.

PART 102—RULES OF ORIGIN

1. The authority citation for part 102 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1624, 3314, 3592.

2. In § 102.21, paragraph (e)(2)(ii) and the introductory text to paragraph (e)(2)(iii) are revised to read as follows:

§ 102.21 Textile and apparel products.

* * * * *

(e) *Specific rules by tariff classification.* * * *

(2) * * *

(ii) If the country of origin cannot be determined under paragraph (e)(2)(i) of this section, except for goods of HTSUS subheading 6117.10 that are knit to shape or consist of two or more component parts, the country of origin is the country, territory, or insular possession in which the fabric comprising the good was formed by a fabric-making process; or

(iii) For goods of HTSUS subheading 6117.10 that are knit to shape or consist of two or more component parts, if the country of origin cannot be determined under paragraph (e)(2)(i) of this section:

* * * * *

Robert C. Bonner,
Commissioner of Customs.

Approved: February 19, 2003.

Timothy E. Skud,
Deputy Assistant Secretary of the Treasury.

[FR Doc. 03–4317 Filed 2–24–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 141 and 142

[T.D. 03–09]

RIN 1515–AC91

Single Entry for Split Shipments

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to allow an importer of record, under certain conditions, to submit a single entry to cover a single shipment which was split by the carrier into multiple portions which arrive in the United States separately. These amendments implement statutory changes made to the merchandise entry laws by the Tariff Suspension and Trade Act of 2000.

EFFECTIVE DATE: March 27, 2003.

FOR FURTHER INFORMATION CONTACT: *For operational or policy matters:* Robert Watt, Office of Field Operations, (202) 927–0279.

For legal matters: Gina Grier, Office of Regulations and Rulings, (202) 572–8730.

SUPPLEMENTARY INFORMATION:

Background

Section 1460 of Public Law 106–476, popularly known as the Tariff Suspension and Trade Act of 2000, amended section 484 of the Tariff Act of 1930 (19 U.S.C. 1484) by adding a new paragraph (j) in order to provide for the treatment of certain multiple shipments of merchandise as a single entry.

The new paragraph (j) involves two scenarios. First, section 1484(j)(1) addresses a problem long encountered by the importing community in entering merchandise whose size or nature necessitates that the merchandise be shipped in an unassembled or disassembled condition on more than one conveyance. Second, section 1484(j)(2) offers relief to importers whose shipments which they intended to be carried on a single conveyance are divided at the initiative of the carrier. As to both these matters, the legislation is silent as to the affected modes of transportation, thus indicating that the new law is to apply to merchandise shipped by air, land or sea.

By a document published in the **Federal Register** (66 FR 57688) on November 16, 2001, Customs proposed regulations to implement 19 U.S.C. 1484(j)(2) relating to shipments which are divided by carriers; these shipments are referred to as ''split shipments''. These final regulations today concern such split shipments.

It is noted that by a separate document published in the **Federal Register** (67 FR 16664) on April 8, 2002, Customs proposed regulations to implement 19 U.S.C. 1484(j)(1) concerning the entry of shipments of unassembled or disassembled entities that arrive on more than one conveyance. This latter proposed rule will be the subject of a final rule document that should be published in the **Federal Register** in the near future.

Split Shipment Defined

Generally speaking, a split shipment consists of merchandise that is capable of being transported on a single conveyance, and that is delivered to and accepted by a carrier in the exporting country as one shipment under one bill of lading or waybill, and is thus intended by the importer to arrive as a single shipment. However, the shipment is thereafter divided by the carrier into different parts which arrive in the United States at different times, often days apart.

In practice, shipments often become split after being delivered intact to a carrier. The movement of cargo as a split shipment on multiple conveyances appears to be a regular and routine industry practice when shipped by air. There are various reasons for a shipment to be split by a carrier, such as limited space, the need to balance weight distribution on a conveyance, and offloading for safety concerns.

The Customs Regulations ordinarily require, with certain exceptions not here relevant, that all merchandise arriving on one conveyance and consigned to one consignee be included on one entry (see § 141.51, Customs Regulations (19 CFR 141.51)). While today's final regulations permit the acceptance of a single entry in the case of such a split shipment, importers may, of course, continue to file a separate entry for each portion of a split shipment as it arrives, if they so choose.

Filing of Single Entry for Split Shipment Under Proposed Rule

In principal part, the November 16, 2001, **Federal Register** document proposed to permit the filing of a single entry to cover a split shipment provided that: (1) The subject shipment was capable of being transported on a single conveyance, and was delivered to and accepted by a carrier in the exporting country under one bill of lading or waybill and was thus intended by the importer to be a single shipment; (2) the shipment was thereafter split or deconsolidated by the carrier, acting on its own; (3) the split-portions of the shipment remain consigned to the same party in the United States to whom they were destined in the original bill of lading or waybill; and (4) those portions of the split shipment that could be covered under the entry arrived directly from abroad at the same port of importation in the United States within 10 calendar days of the date of the portion that arrived first.

Specifically, to implement 19 U.S.C. 1484(j)(2) under which an importer could make a single entry for a split shipment, it was proposed to add a new § 141.57 to the Customs Regulations (19 CFR 141.57), in addition to making certain amendments to § 142.21 of the Customs Regulations (19 CFR 142.21). Also, a minor conforming change was to be made as well to § 141.51 of the Customs Regulations (19 CFR 141.51).

By a document published in the **Federal Register** (67 FR 3135) on January 23, 2002, the period of time within which public comments could be submitted in response to the proposed rule was re-opened until February 14, 2002.

Discussion of Comments

A total of twenty-two commenters responded to the notice of proposed rulemaking. A description of the issues raised by these commenters, together with Customs response to these issues is set forth below.

General Comments on the Proposed Rule

Comment: It is improper for Customs to propose regulations for split shipments and for unassembled and disassembled entities in two separate regulation packages.

Customs Response: Although 19 U.S.C. 1484(j)(1) and (j)(2) allow for the filing of a single entry for shipments which arrive at different times, sections 1484(j)(1) and 1484(j)(2) ultimately address two very different situations. As a result, and to minimize confusion between the two provisions, Customs decided to address each provision in separate rulemakings.

Comment: The proposed regulations providing for a single entry for shipments split by the carrier do not reflect an agreement that Customs reached prior to the enactment of 19 U.S.C. 1484(j)(2) on the manner in which such split shipments would be regulated.

Customs Response: The legislation supersedes any informal agreements that Customs and the trade may have made prior to its enactment. In the proposed rule, Customs endeavored to reflect the intent of Congress in enacting 19 U.S.C. 1484(j)(2). Customs thoroughly reviewed the comments that were received in response to the proposed rule and, in this final rule, has made a number of changes to the regulations as initially proposed for split shipments.

Comment: The split shipment procedures followed by Customs at Los Angeles International Airport and at John F. Kennedy Airport in New York are preferable to those reflected in the proposed rule.

Customs Response: Customs reviewed the split shipment procedures at these airports. In developing the proposed regulations, Customs included the most operationally feasible features of the procedures for handling split shipments at those locations.

Comment: It was asked whether entries of split shipments may be processed through the Pre-Arrival Processing System (PAPS). The PAPS system allows electronic entries to be submitted prior to the time a truck arrives at the United States border.

Customs Response: Customs plans to issue a Federal Register notice on PAPS shortly and will address this comment then.

Comment: It is contended that, by allowing for a single entry for merchandise arriving on separate

conveyances at different times, 19 U.S.C. 1484(j) will enable the circumvention of laws restricting the importation of softwood lumber.

Customs Response: Customs does not believe that 19 U.S.C. 1484(j)(2) will have an adverse impact on United States lumber interests; section 1484(j)(2) merely allows an importer to file one entry to cover a single shipment which is split by the carrier and which arrives in the United States separately.

Comment: The proposed rule will interfere with the Government's collection of waterborne commerce statistics, because the ability to match arriving commodities with the actual transporting vessel will be compromised. For this reason, it is recommended that vessel shipments be eliminated from the proposed rule.

Customs Response: This comment appears to address the fact that statistical information is collected on the CF 7501 entry summary, which currently can accommodate data pertaining to only one conveyance. Customs will endeavor to design future information collection systems which capture more comprehensive data. As 19 U.S.C. 1484(j)(2) is silent as to the modes of transportation involved, Customs concluded that the legislation implicitly intended to include within its scope all modes of transportation. Thus, vessel shipments may not be excluded from the split shipment rulemaking. However, Customs anticipates that split shipments should occur infrequently in the vessel environment, because it is unlikely that oceangoing carriers, most of which have large cargo capacities, will need to split shipments due to space, weight or other logistical concerns.

Comment: The proposed split shipments program may compromise the quality of statistics, particularly with respect to freight charges, which will be obtained from Customs Form (CF) 7501. As such, Customs should develop a means of collecting multiple carrier information under ACE (Automated Commercial Environment). Furthermore, in this same vein, it is remarked that numerous, albeit unidentified, issues relating to automation exist in connection with split shipments that warrant further discussion prior to implementation of final regulations concerning such shipments.

Customs Response: Customs is aware of the concerns relating to the collection of statistics under the ACE and will address these issues in developing and refining the ACE system. In this regard, however, the collection of statistics under the ACE system as well as any issues related to automation fall outside the scope of this rulemaking.

Comment: Customs should utilize a new type of entry for handling split shipments. It is recommended in this context that the importer enter the entire value of the shipment when the first portion arrives, and then flag the entry for reconciliation following the arrival of all portions of the shipment that are covered under the entry.

Customs Response: Customs disagrees. The introduction of a new type of entry to handle split shipments is unnecessary for the successful implementation of the split shipment program. Resort to the reconciliation method for processing split shipments would defeat the purpose of the legislation, which is to allow the filing of a single entry for a shipment whose portions arrive separately. Under the suggested reconciliation approach, a minimum of two entries would have to be filed—a consumption entry and a reconciliation entry. Of course, importers who file single entries for shipments which have been split may flag those entries for reconciliation if the entries have unresolved issues of the kind which are entitled to be resolved under the established entry reconciliation program.

Comment: Customs should adopt an alternative procedure under which it would grant blanket permission to importers to file the entry summary for an air split shipment in its entirety at the time of the arrival of the first portion; then allow incremental release for that portion and all portions that thereafter arrive; followed by the submission of a final accounting or report by the importer. Any total quantity variances would be reported through standard reconciliation procedures.

Customs Response: Customs lacks the operational ability at the present time to implement the type of procedure described. Also, as indicated in the response to the previous comment, Customs disagrees with the general use of the reconciliation procedure as a method for processing split shipments.

Comment: Customs should eliminate the three-year restriction on the reuse of air waybill numbers and should allow the unique identifier for the bill of lading to be composed of six elements rather than two. Also, Customs should allow the air waybill number to be used as the in-bond control record for each arrival of a shipment.

Customs Response: These suggestions are outside the scope of this rulemaking. However, it is noted that Customs in a recently published rulemaking amended its regulations to allow air waybill numbers to be reused after one year.

Comment: It is asked whether Customs will post the release of each part of a split shipment in the Air Automated Manifest System (AMS).

Customs Response: To enable Customs to post release information for each part of a split shipment, the entry filer will need to inform the appropriate Customs personnel where the entry is filed in order for such personnel to make the necessary corrections and manually enter the relevant information for each arrival in the Air AMS. Customs Office of Information and Technology (OIT) intends to implement programming changes so that release information may be posted in the AMS system automatically.

Comment: A question is posed as to how split shipments would be processed if they require inspection by the U.S. Department of Agriculture (USDA).

Customs Response: Split shipments requiring inspection by other Government agencies will be processed in the same manner as regular (non-split) shipments that require such inspection.

Comment: The proposed split shipment regulations should provide for the amendment of certificates of origin that are used in preferential trade programs so as to eliminate the need to obtain revised certificates from the importer or producer covering each portion of a split shipment that arrives.

Customs Response: Customs does not believe this is necessary. Most certificates of origin are blanket certificates, designed to cover merchandise appearing on many entries. When a certificate of origin covering a single entry pertains to merchandise in a shipment which is split, and separate entries covering different portions of the shipment are filed (either by choice or because a portion of the shipment arrives too late to be covered under the split-shipment entry), copies of the certificate may be made to apply to any additional entries.

General Rule—Amendment of § 141.51

Comment: Given that importers prefer filing a single entry when a split shipment occurs, § 141.51 should be revised to treat separate entries in such circumstances as the exception rather than the rule.

Customs Response: Customs disagrees. Allowing an importer to file one entry for shipments which arrive at different times is an exception to the longstanding general rule that all merchandise consigned to one consignee which arrives on one vessel,

aircraft or vehicle must be included in one entry. The exception carved out for split shipments is simply one of several exceptions to this general rule, and applies only to a limited number of entries. The general rule itself has not been changed as the result of the enactment of 19 U.S.C. 1484(j).

Definition of Split Shipment—Proposed § 141.57(b)

Comment: Customs should broaden the types of split shipments which are eligible for single entry treatment. It is advocated, for example, that the proposed rule cover shipments that are split at the port of arrival for transportation separately to the port where entry is to be made. It is stated that this situation can result when merchandise which arrives in the United States on a single conveyance is split at the port of arrival into separate portions because an insufficient number of vehicles are available at the time of arrival to simultaneously transport the entire shipment to the port where entry is made.

Customs Response: Customs disagrees. The purpose of 19 U.S.C. 1484(j)(2) is to furnish a mechanism by which one entry may be filed for a shipment that is split by the original carrier to which the shipment was delivered at the foreign port for transportation to the United States. To expand coverage under the law to shipments that are split after importation into the United States would exceed the purview of the statute.

Comment: It is a distortion of the intent of the statute to define a split shipment as being a shipment which is delivered to and accepted by the carrier as a single shipment under one bill of lading. It is contended that the definition of a split shipment to this effect fails to take into account situations in which the importer delivers goods to the carrier as a single shipment, but the carrier then informs the importer that the shipment must be carried on several conveyances due to insufficient cargo space remaining on currently available ships. Under the proposed rule, such a shipment would not qualify as a split shipment because it would not have been accepted by the carrier as a single shipment.

Customs Response: Customs does not believe that the definition of a split shipment under § 141.57(b) distorts the intent of the statute. Rather, it is Customs' view that the purpose of 19 U.S.C. 1484(j)(2) is to offer relief to importers whose shipments have been split by the carrier after the carrier has accepted the shipment with the importer's understanding that the shipment would be transported on a single conveyance. Under those circumstances, the importer would have a realistic expectation that the shipment would arrive at one time and that the importer would thus be able to file one entry. However, as described in the comment, the importer would already know prior to concluding shipping arrangements with the carrier that the shipment would be transported on different conveyances and would arrive in the United States at different times.

Comment: The proposed requirement that all portions of a split shipment arrive within 10 calendar days of the date of arrival of the first portion does not square with modern shipping realities. The 10 calendar day arrival time should be extended to 30 or 90 days, in order to more accurately reflect the Congressional intent that split shipments can occur over a period of time. In the alternative, if the portions of a split shipment are to be limited to arriving within 10 calendar days of one another, Customs should change 10 calendar days to 10 business days.

Customs Response: Customs believes that the overwhelming majority of split shipment transactions which may occur may be easily accommodated within the 10 calendar day period as originally proposed. Furthermore, the use of a 10 calendar day arrival window affords an importer sufficient time to file an entry summary within 10 working days from the time the first portion of the split shipment is released, given that a 10 working day period will always be longer than a 10 calendar day period.

Comment: A question is raised as to whether there is a limit to the number of portions into which a carrier may split a master shipment.

Customs Response: There is no limit to the number of portions into which a carrier may split a shipment.

Comment: The proposed requirement that all conveyances carrying a split shipment initially arrive at the same port of importation in the United States should be eliminated because routing merchandise from one United States port to another is a standard business practice exercised by carriers.

Customs Response: Customs agrees. Accordingly, proposed § 141.57(b)(3) is revised in this final rule by eliminating the requirement that all portions of a split shipment arrive at the same port of importation in the United States. Instead, all portions of the split shipment must timely arrive at the same port of entry in the United States, as listed on the original bill of lading. Any portion of a split shipment that arrives at a different port must be transported in-bond to the port of destination where entry will be made; and such in-bond transportation to the port of destination must occur before the transported merchandise may be released by Customs. In conformance with this requirement, proposed §§ 141.57(d)(1), (d)(2), (e), (i), (j)(1), and 142.21(g) are appropriately changed in this final rule.

Notice to Customs That Shipment Has Been Split—Proposed § 141.57(c)

Comment: It is asked how the importer would know whether the carrier has informed Customs of a split shipment.

Customs Response: Under § 141.57(c), it is expressly the responsibility of the importer, not the carrier, to notify Customs that the importer's shipment has been split by the carrier. To this end, the adequacy of communication between the importer and the carrier is a private matter between those parties.

Comment: Proposed § 141.57(c) should be revised to simply require that the importer notify Customs of a split shipment prior to the filing of the entry summary, in recognition that the importer's knowledge of the circumstances may be limited or nonexistent.

Customs Response: Customs disagrees. Section 141.57(c) requires that notification be given as soon as the importer becomes aware that the shipment has been split, but that in all cases such notification must be made before the entry summary is filed. This requirement is specifically designed to give an importer maximum flexibility in informing Customs of the intention to file a single entry for a split shipment, in recognition of the fact that an importer may learn of a split shipment at different times.

Comment: Further details are requested concerning the form of the notification. It is asked whether an electronic message (e-mail) would be sufficient.

Customs Response: Section 141.57(c) requires that such notification be given to Customs in writing. To this end, Customs would prefer that the notice be written on the front of Customs Form (CF) 3461 or that notice be submitted in the form of a letter if an electronic CF 3461 is filed. The letter could also be faxed to the applicable port.

Customs is currently incapable of accepting e-mail at all ports. Provision for electronic notification will be made in the Automated Commercial Environment (ACE) system.

Comment: Under the current systems for handling split shipments employed at Los Angeles International Airport and at John F. Kennedy Airport in New

York, the carrier is required to include each split portion on the manifest. Hence, it is asserted that the manifest should constitute the advance notification to Customs that the shipment has been split. If the importer does not file a separate entry for each arriving portion, it should be understood that the importer intends to file a single entry for the entire split shipment.

Customs Response: Customs disagrees. The advance notice is a statutory requirement which lets Customs know that the importer has elected to file a single entry for all portions of the split shipment. Mere notification that the shipment has been split is not notification by the importer that a single entry will be filed for the shipment.

Entry or Permit for Immediate Delivery—Proposed § 141.57(d)

Comment: It appears that the immediate delivery procedures for a split shipment require that the merchandise in the shipment be delivered to the carrier in the foreign country under one invoice. However, it is a common business practice for a shipment to contain merchandise covered by multiple invoices. As long as the merchandise is tendered to the carrier at the same time, there should be no limitation on the number of invoices involved.

Customs Response: Customs agrees. Provided the merchandise is delivered to the carrier as set forth in proposed § 141.57(b)(1), there should be no limitation on the number of invoices involved. Paragraphs (d)(1) and (d)(2) of proposed § 141.57 are amended accordingly in this final rule; and a conforming change to proposed § 142.21(g) is made as well in this final rule.

Comment: The release procedures in proposed § 141.57(d)(1) and (d)(2) should allow for one Customs Form (CF) 3461 to be filed and applied against all portions of the shipment. Then, if any portion of the shipment still has not arrived within the prescribed 10 day period, such portion would be deducted from the invoice(s) used on the entry summary for the shipment, and that portion would then be entered separately. In the alternative, should Customs determine that adjusted CF 3461 copies are necessary, it is suggested that Customs allow the electronic filing of the adjusted CF 3461s.

Customs Response: It is initially noted that under the release procedure in § 141.57(d)(1), only one CF 3461 will need to be filed. By contrast, under the procedure in § 141.57(d)(2) which provides for the separate release of each portion of a split shipment as it arrives, Customs finds that requiring an adjusted copy of the CF 3461 to be submitted for each portion of the shipment is necessary in order to afford a mechanism by which the importer and Customs may easily and effectively keep track of the specific merchandise contained in any given portion of the shipment. However, Customs agrees that multiple CF 3461 copies are unnecessary when both the carrier and the importer are automated. In the case of such automation, adjustments may be made electronically to show the quantity of merchandise contained in each portion of the shipment as it arrives. Proposed § 141.57(d)(2) is thus amended in this final rule to reflect that if both the carrier and the importer are automated, such adjustments may be made electronically through the Customs ACS (Automated Commercial System).

Comment: Under the incremental release procedure in proposed § 141.57(d)(2), clarification is needed as to what is meant by the quantity of merchandise that must be reflected on the adjusted Customs Form (CF) 3461 that is submitted to Customs upon the arrival of each portion of a split shipment.

Customs Response: The quantity means the number of pieces, boxes, cartons, and the like, which are contained in the particular portion of the split shipment as it arrives, relative to the total number delivered by the shipper to the foreign carrier. To minimize confusion in this regard, proposed § 141.57(d)(2) is revised in this final rule to make clear that the adjusted quantity will reflect the quantity in that particular portion relative to the quantity contained in the entire shipment as delivered to and accepted by the carrier in the exporting country.

Comment: It is contended that 19 U.S.C. 1484(j)(2) represents a statutory exception to the well established principle that entry may only be made after merchandise has been imported. As such, instead of the procedure in proposed § 141.57(d)(2), which requires a special permit for immediate delivery for portions of a split shipment that are released incrementally following their arrival, Customs should allow the entire shipment to be entered at the time that the first portion of the shipment is imported.

Customs Response: Customs disagrees. Section 1484(j)(2) is not an exception to the general rule that importation must precede entry. Rather, the law simply allows one shipment which is split by the carrier and which arrives in the United States at different times to be covered under one entry. Previously, each portion would have required a separate entry. Under section 1484(j)(2), however, importers of merchandise whose shipments have been split by the carrier may either continue to file a separate entry for each portion, or they may file a single entry for all of the portions which arrive within a prescribed period of time.

Nevertheless, resort to the immediate delivery procedure of § 141.57(d)(2) is only necessary when the importer wishes to file one entry, but wants each portion to be released as it arrives. Under this immediate delivery procedure, since the time of entry occurs, not upon release, but upon the filing of the entry summary, § 141.57(d)(2) ensures that all portions of the split shipment are imported prior to the entry being filed. Importers who want to file one entry but who object to using the immediate delivery procedure in § 141.57(d)(2) may instead opt to use the procedure in § 141.57(d)(1), under which one entry may be filed but release of the merchandise is delayed until all portions of the shipment have arrived.

Necessary Manifest Data to Secure Release of Shipment—Proposed § 141.57(e)

Comment: Further elaboration is requested concerning the process by which a carrier would make adjustments to the quantity set forth in the manifest as necessary to secure the incremental release of the shipment under proposed § 141.57(d)(2). It is specifically asked how such adjustments would be administered.

Customs Response: Carriers are required under § 141.57(e) to present manifest information to Customs which reflects exact information for each portion of a split shipment in order to qualify the split shipment for incremental release, pursuant to § 141.57(d)(2), as each portion of the shipment arrives. Carriers may accomplish the presentation of this adjusted manifest information either on a paper manifest or electronically if both the carrier and the importer are operational on the Customs Automated Commercial System (ACS), as noted above.

Filing of Entry Summary for Split Shipment—Proposed § 141.57(g)

Comment: Proposed § 141.57(g)(2)(ii) contains a technical contradiction in requiring the entry summary to be filed no later than 10 working days after the first cargo release, while in effect not

allowing summary filing before the arrival of the last portion of the split shipment which is to be included on the entry.

Customs Response: There is no contradiction. Since all portions of the shipment must arrive within 10 calendar days of the portion that arrives first, and the entry summary must be filed under § 141.57(g)(2)(ii) within 10 working days from the date of first release of a portion of the shipment, there should be sufficient time for all portions of the split shipment to arrive before the entry summary is required to be filed. However, should any portions not arrive within 10 calendar days of the portion that arrived first, such late-arriving portions would need to be separately entered, as prescribed in § 141.57(i).

Separate Entries Required—Proposed § 141.57(i)

Comment: Regarding portions of a shipment that do not arrive within the required 10 calendar day period, it was asked whether the consignee or agent would be responsible for paying full duty on the entire shipment before it is complete.

Customs Response: The importer of record will only be responsible for paying duty based on the value and/or quantity of merchandise contained in those portions of the split shipment that arrive within the required 10 calendar day time frame and are thus included in the split-shipment entry. As such, when a portion of a split shipment does not arrive within the prescribed 10 calendar day period, that portion will not be included on the entry, and thus no duty will yet be due on that portion. Duty on any delayed portion will become due when the portion does arrive and a separate entry for that portion is filed.

Comment: Merchandise classifiable under the same subheading of the Harmonized Tariff Schedule of the United States (HTSUS) may nevertheless be subject to different rates of duty if the applicable rate already applied against one portion of a split shipment changes and the changed rate is thereafter assessed against a second portion. It is stated in particular that this problem could arise where a change in the duty rate occurs after any portion of the split shipment is accepted for transportation in-bond to the port of destination.

Customs Response: Customs agrees. Under 19 CFR 141.69(b), the duty rate applied to merchandise in any portion of a split shipment that is transported in-bond to the port of destination would be the duty rate in effect for such merchandise when Customs accepts the in-bond transportation entry; merchandise in any other portion of the shipment, however, would thereafter generally be subject to the rate of duty in effect at the time of entry pursuant to 19 CFR 141.68(a)(1) or (c), as applicable. As a result, if merchandise classifiable under the same subheading of the HTSUS arrives in the United States at different times as part of a split shipment, a change in the rate of duty that occurs during this time with respect to such merchandise could result in two different rates of duty being assessed against the merchandise on the same split shipment entry.

This would present an administrative/operational problem for Customs because current Customs systems are incapable of accepting different duty rates on one entry for merchandise that is classifiable under the same HTSUS subheading. Hence, a separate entry will be required for any portion of a split shipment in those rare instances where necessary to preclude the application of different rates of duty on a split shipment entry for merchandise that is identically classifiable under the HTSUS. Proposed § 141.57(i) is changed in this final rule to add a provision to this effect.

Importer Review of Entry; Evidence of Split Shipment—Proposed § 141.57(j)

Comment: Under proposed § 141.57(j)(1), Customs should rely primarily upon carriers, rather than importers, to obtain timely and accurate split shipment information because it is the carriers' decision to split the shipments in the first place.

Customs Response: Customs disagrees. While it is the case that shipments are split at the initiative of the carrier, it is the importer, not the carrier, who elects to file a single entry for all portions of a split shipment. Since the importer files the entry, it is properly the responsibility of the importer to ensure that the entry is correct and that it accurately reflects the actual amount, value, correct classification and rate of duty of the merchandise covered under the entry, as required in § 141.57(j)(1).

Comment: It is unnecessary to require in proposed § 141.57(j)(2) that the importer maintain sufficient documentary evidence to substantiate that the splitting of a shipment was done by the carrier acting on its own. Importers do not want their shipments to be split because this causes their shipments to be delayed.

Customs Response: Customs disagrees. Under 19 U.S.C. 1484(j)(2), the use of the single entry procedure for separate portions of a split shipment is contingent upon the shipment having been split at the instruction of the carrier. The importer must therefore maintain suitable documentary evidence to substantiate that the shipment was split by the carrier on its own initiative.

Comment: In proposed § 141.57(j)(2), the requirement that an importer maintain a copy of the originating bill of lading or air waybill is essentially impossible as carriers by law do not make documents of this nature available to the importer due to the fact that such documents contain confidential freight rate information. An importer should not even be required to obtain a letter from the carrier as proof that the carrier split the shipment on its own initiative because carriers would generally not be timely in providing such letters. It is contended that the carrier should be the party responsible for keeping records of the shipments which they have chosen to split.

Customs Response: It is again emphasized that since the importer is the party who elects to file a single entry covering multiple portions of a split shipment, it is properly the responsibility of the importer to substantiate its right to do so. However, Customs agrees that an importer who elects to file a single entry for a split shipment but who never receives a copy of the originating bill of lading or air waybill cannot be required to maintain or produce what he does not receive. However, Customs does need evidence that the splitting of the shipment was done at the carrier's initiative. Accordingly, proposed § 141.57(j)(2) is amended in this final rule to provide that the importer must keep a copy of the originating bill of lading or air waybill or, in the absence of such document, any other supporting documentary evidence, such as a letter, from the carrier confirming that the splitting of the shipment was done by the carrier on its own initiative. An importer will have to insist that a carrier provide the necessary documentary evidence.

Denial of Incremental Release; Quota; Other Goods—Proposed § 141.57(k)

Comment: Proposed § 141.57(k)(1) wrongly excludes merchandise subject to quota and/or visa requirements from the incremental release procedure in proposed § 141.57(d)(2).

Customs Response: Customs finds that quota and/or visa merchandise is of such a sensitive nature as to warrant its exclusion from the incremental release procedure of § 141.57(d)(2). Nevertheless, by precluding the use of the incremental release procedure in

§ 141.57(d)(2), Customs is not preventing importers of merchandise subject to quota or visa requirements from availing themselves of the benefits of the law. Under the procedure in § 141.57(d)(1), importers may still file a single entry under 19 U.S.C. 1484(j)(2) for a shipment of quota/visa merchandise which has been split by the incoming carrier. The procedure in § 141.57(d)(1) provides for the filing of a single entry after all portions of a split shipment have arrived. Under this procedure, the portions of the split shipment are not released incrementally, as each portion arrives, but are held until all portions have arrived and the single entry covering those portions has been filed.

Comment: With respect to proposed § 141.57(k)(2), a port director should not have the unfettered discretion to deny incremental release under proposed § 141.57(d)(2) as circumstances warrant. Also, the port director should not have the discretion to deny incremental release for purposes of examination, as provided in proposed § 141.57(f). In the alternative, an importer whose shipment is denied incremental release should be able to appeal such a denial.

Customs Response: Customs believes that there may be circumstances under which the incremental release procedure is inappropriate and should not be allowed. In such circumstances, Customs has the authority to examine all of the merchandise included on an entry before allowing the release of any portion of the shipment.

In addition, Customs does not believe that an appeals process for a denial of incremental release is practicable, for two reasons. First, most of the portions of a split shipment will have arrived before an appeals process could be completed. Second, importers who are denied the use of incremental release under § 141.57(d)(2) for a particular split shipment are not deprived of the benefit conferred by the statute, that is, they may still file one entry for portions of a shipment which arrive separately in accordance with the release procedure set forth in § 141.57(d)(1).

Additional Change

In addition, proposed § 141.57(e) is clarified in this final rule to provide that the carrier responsible for splitting a shipment must notify any other obligated entities (such as another carrier or a freight forwarder) that have submitted electronic manifest information to Customs about the shipment that was split so that these parties can update their manifest information to Customs.

Conclusion

After careful consideration of the comments received and further review of the matter, Customs has concluded that the proposed amendments should be adopted with the modifications discussed above.

Regulatory Flexibility Act and Executive Order 12886

This final rule implements the statutory law and engenders cost savings by reducing paperwork for importers, and by reducing the number of entries required for split shipments. As such, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Nor do these final regulations result in a ''significant regulatory action'' under E.O. 12866.

Paperwork Reduction Act

The collections of information encompassed within this final rule have already been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB Control Numbers 1515–0065 (Requirement to make entry unless specifically exempt; Requirement to file entry summary form); 1515–0167 (Statement processing and Automated Clearinghouse); 1515–0214 (General recordkeeping and record production requirements); and 1515–0001 (Transportation manifest; cargo declaration). This rule does not make any material change to the existing approved information collections. An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

List of Subjects

19 CFR Part 141

Customs duties and inspection, Entry of merchandise, Release of merchandise, Reporting and recordkeeping requirements.

19 CFR Part 142

Computer technology, Customs duties and inspection, Entry of merchandise, Reporting and recordkeeping requirements.

Amendments to the Regulations

Parts 141 and 142, Customs Regulations (19 CFR parts 141 and 142), are amended as set forth below.

PART 141—ENTRY OF MERCHANDISE

1. The general authority citation for part 141 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

* * * * *

2. Section 141.51 is revised to read as follows:

§ 141.51 Quantity usually required to be in one entry.

All merchandise arriving on one conveyance and consigned to one consignee must be included on one entry, except as provided in § 141.52. In addition, a shipment of merchandise that arrives by separate conveyances at the same port of entry in multiple portions, as a split shipment, may be processed under a single entry, as prescribed in § 141.57.

3. Subpart D of part 141 is amended by adding a new § 141.57 to read as follows:

§ 141.57 Single entry for split shipments.

(a) *At election of importer of record.* At the election of the importer of record, Customs may process a split shipment, pursuant to section 484(j)(2), Tariff Act of 1930 (19 U.S.C. 1484(j)(2)), under a single entry, as prescribed under the procedures set forth in this section.

(b) *Split shipment defined.* A ''split shipment'', for purposes of this section, means a shipment:

(1) Which may be accommodated on a single conveyance, and which is delivered to and accepted by a carrier in the exporting country under one bill of lading or waybill, and is thus intended by the importer of record to arrive in the United States as a single shipment;

(2) Which is thereafter divided by the carrier, acting on its own, into different portions which are transported and consigned to the same party in the United States; and

(3) Of which the first portion and all succeeding portions arrive at the same port of entry in the United States, as listed in the original bill of lading or waybill; and all the succeeding portions arrive at the port of entry within 10 calendar days of the date of the first portion. If any portion of the shipment arrives at a different port, such portion must be transported in-bond to the port of destination where entry of the shipment is made.

(c) *Notification by importer of record.* The importer of record must notify Customs, in writing, that the shipment

has been split at the carrier's initiative, that the remainder of the shipment will arrive by subsequent conveyance(s), and that an election is being made to file a single entry for all portions. The required notification must be given as soon as the importer of record becomes aware that the shipment has been split, but in all cases notification must be made before the entry summary is filed.

(d) *Entry or special permit for immediate delivery.* In order to make a single entry for a split shipment or obtain a special permit for the release of a split shipment under immediate delivery, an importer of record may follow the procedure prescribed in paragraph (d)(1) or (d)(2) of this section, as applicable.

(1) *Entry or special permit after arrival of entire shipment.* An importer of record may file an entry at such time as all portions of the split shipment have arrived at the port of entry (see paragraph (b)(3) of this section). In the alternative, again after the arrival of all portions of a split shipment at the port of entry, the importer of record may instead file a special permit for immediate delivery provided that the merchandise is eligible for such a permit under § 142.21(a)—(f) and (h) of this chapter. In either case, the importer of record must file Customs Form (CF) 3461 or CF 3461 alternate (CF 3461 ALT) as appropriate, or electronic equivalent, with Customs. The entry or special permit must indicate the total number of pieces in, as well as the total value of, the entire shipment as reflected on the invoice(s) covering the shipment.

(2) *Special permit prior to arrival of entire shipment.* As provided in § 142.21(g) of this chapter, an importer of record may also file a special permit for immediate delivery after the arrival of the first portion of a split shipment at the port of entry (see paragraph (b)(3) of this section), but before the arrival of the entire shipment at such port, thus qualifying the split shipment for incremental release, under paragraph (e) of this section, as each portion of the shipment arrives at the port of entry (see paragraph (g)(2)(ii) of this section). In such case, a CF 3461 or CF 3461 ALT as appropriate, or electronic equivalent, must be filed with Customs. As each portion arrives at the port of entry, the importer of record must submit a copy of the CF 3461/CF 3461 ALT, adjusted to reflect the quantity of that particular portion relative to the quantity contained in the entire split shipment (see paragraph (b)(1) of this section); however, if both the carrier and the importer of record are automated, such adjustments may instead be made electronically through the Customs ACS (Automated Commercial System). In the event that an entry has been pre-filed with Customs (see § 142.2(b) of this chapter), notification to Customs by the importer of record that a single entry will be filed for shipments released incrementally will serve as a request that the pre-filed entry be converted to an application for a special permit for immediate delivery (see § 142.21(g) of this chapter). The special permit must indicate the total number of pieces in, as well as the total value of, the entire shipment as reflected on the invoice(s) covering the shipment. Customs may limit the release of each portion of the split shipment upon arrival at the port of entry, as permitted under this paragraph, due to the need to examine the merchandise in accordance with paragraph (f) of this section.

(e) *Release.* To secure the separate release upon arrival of each portion of a split shipment at the port of destination under paragraph (d)(2) of this section, the carrier responsible for initially splitting the shipment must present to Customs, either on a paper manifest or through an authorized electronic data interchange system, manifest information relating to the shipment that reflects exact information for each portion of the split shipment. The carrier responsible for splitting the shipment must notify other obligated entities (such as another carrier or freight forwarder) that have submitted electronic manifest information to Customs about the shipment that was split so that these parties can update their manifest information to Customs.

(f) *Examination.* Customs may require examination of any or all parts of the split shipment. For split shipments subject to the immediate delivery procedure of paragraph (d)(2) of this section, Customs reserves the right to deny incremental release should such an examination of the merchandise be necessary. The denial of incremental release does not preclude the use of the procedures specified in paragraph (d)(1) of this section.

(g) *Entry summary.*— (1) *Entry.* For merchandise entered under paragraph (d)(1) of this section, the importer of record must file an entry summary within 10 working days from the time of entry.

(2) *Release for immediate delivery.*— (i) *Release under paragraph (d)(1) of this section.* For merchandise released under a special permit for immediate delivery pursuant to paragraph (d)(1) of this section, the importer of record must file the entry summary, which serves as both the entry and the entry summary, within 10 working days after the merchandise or any part of the merchandise is authorized for release under the special permit or, for quota class merchandise, within the quota period, whichever expires first (see § 142.23 of this chapter).

(ii) *Release under paragraph (d)(2) of this section.* For merchandise released under a special permit for immediate delivery pursuant to paragraph (d)(2) of this section, the importer of record must file the entry summary, which serves as both the entry and the entry summary, within 10 working days from the date of the first release of a portion of the split shipment. The filed entry summary must reflect all portions of the split shipment which have been released, to include quantity, value, correct classification and rate of duty. The entry summary cannot include any portions of the split shipment which have not been released.

(3) *Duty payment.* With the entry summary filed under paragraphs (g)(1) and (g)(2)(i) and (g)(2)(ii) of this section, the importer of record must attach estimated duties, taxes and fees applicable to the released merchandise. If the entry summary is filed electronically, the estimated duties, taxes and fees must be scheduled for payment at such time pursuant to the Automated Clearinghouse (see § 24.25 of this chapter).

(h) *Classification.* For purposes of section 484(j)(2), Tariff Act of 1930 (19 U.S.C. 1484(j)(2)), the merchandise comprising the separate portions of a split shipment included on one entry will be classified as though imported together.

(i) *Separate entry required.*— (1) *Untimely arrival.* The importer of record must enter separately those portions of a split shipment that do not arrive at the port of entry within 10 calendar days of the portion that arrived there first (see paragraph (b)(3) of this section).

(2) *Different rates of duty for identically classified merchandise.* An importer of record will be required to file a separate entry for any portion of a split shipment if necessary to preclude the application of different rates of duty on a split shipment entry for merchandise that is classifiable under the same subheading of the Harmonized Tariff Schedule of the United States (HTSUS).

(j) *Requirement of importer of record to review entry and maintain evidence substantiating splitting of shipment.*— (1) *Review of entry.* The importer of record will be responsible for reviewing the total manifested quantity shown on the CF 3461/CF 3461 ALT, or electronic equivalent, in relation to all portions of the split shipment that arrived at the

port of entry under paragraph (b)(3) of this section within the specified 10 calendar day period. At the conclusion of the specified 10 calendar day period, the importer of record must make any adjustments necessary to reflect the actual amount, value, correct classification and rate of duty of the merchandise that was released incrementally under the split shipment procedures. If all portions of the split shipment do not arrive within the required 10 calendar day period, the importer of record must file an additional entry or entries as appropriate to cover any remaining portions of the split shipment that subsequently arrive (see paragraph (i)(1) of this section).

(2) *Evidence for splitting of shipment; recordkeeping.* The importer of record must maintain sufficient documentary evidence to substantiate that the splitting of the shipment was done by the carrier acting on its own, and not at the request of the foreign shipper and/or the importer of record. This documentation should include a copy of the originating bill of lading or waybill under which the shipment was delivered to the carrier in the country of exportation or other supporting documentary evidence, such as a letter from the carrier confirming that the splitting of the shipment was done by the carrier on its own initiative. This documentary evidence as well as all other necessary records received or generated by or on behalf of the importer of record under this section must be maintained and produced, if requested, in accordance with part 163 of this chapter.

(k) *Single entry limited; exclusions from single entry under incremental release procedure.*

(1) *Quota/visa merchandise.* Merchandise subject to quota and/or visa requirements is excluded from incremental release under the immediate delivery procedure set forth in paragraph (d)(2) of this section and § 142.21(g) of this chapter. Additionally, if by splitting a shipment any portion of it is subject to quota, no portion of the split shipment may be released incrementally.

(2) *Other merchandise.* In addition, the port director may deny the use of the incremental release procedure set forth in paragraph (d)(2) of this section and § 142.21(g) of this chapter, as circumstances warrant.

(3) *Limited single entry available.* For merchandise described in paragraphs (k)(1) and (k)(2) of this section, that is excluded from the immediate delivery procedure of paragraph (d)(2) of this section and § 142.21(g) of this chapter, the importer of record may still file a single entry or special permit for immediate delivery under paragraph (d)(1) of this section covering the entire split shipment of such merchandise following, and to the extent of, its arrival within the required 10 calendar day period.

PART 142—ENTRY PROCESS

1. The authority citation for part 142 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. Section 142.21 is amended as follows:

a. By removing the second sentence in paragraph (e)(1) and adding in its place two new sentences;

b. By removing the second sentence in paragraph (e)(2) and adding in its place two new sentences;

c. By redesignating paragraph (g) as paragraph (h) and adding a new paragraph (g); and

d. By revising newly redesignated paragraph (h).

The additions and revision read as follows:

§ 142. 21 Merchandise eligible for special permit for immediate delivery.

* * * * *

(e) *Quota-class merchandise.* (1) *Tariff rate.* * * * However, merchandise subject to a tariff-rate quota may not be incrementally released under a special permit for immediate delivery as provided in paragraph (g) of this section. Where a special permit is authorized, an entry summary will be properly presented pursuant to § 132.1 of this chapter within the time specified in § 142.23, or within the quota period, whichever expires first. * * *

(2) *Absolute.* * * * However, merchandise subject to an absolute quota under this paragraph may not be incrementally released under a special permit for immediate delivery as provided in paragraph (g) of this section. Where a special permit is authorized, a proper entry summary must be presented for merchandise so released within the time specified in § 142.23, or within the quota period, whichever expires first. * * *

* * * * *

(g) *Incremental release of split shipments.* Merchandise subject to § 141.57(d)(2) of this chapter, which is purchased and delivered to the carrier as a single shipment, but which is shipped by the carrier in separate portions to the same port of entry as provided in § 141.57(b)(3), may be released incrementally under a special permit. Incremental release means releasing each portion of such shipments separately as they arrive.

(h) *When authorized by Headquarters.* Headquarters may authorize the release of merchandise under the immediate delivery procedure in circumstances other than those described in paragraphs (a), (b), (c), (d), (e), (f) and (g) of this section provided a bond on Customs Form 301 containing the bond conditions set forth in § 113.62 of this chapter is on file.

3. Section 142.22 is amended by removing the first sentence of paragraph (a) and adding in its place two sentences to read as follows:

§ 142.22 Application for special permit for immediate delivery.

(a) *Form.* An application for a special permit for immediate delivery will be made on Customs Form 3461, Form 3461 ALT, or its electronic equivalent, supported by the documentation provided for in § 142.3. A commercial invoice will not be required, except for merchandise released under the provisions of 19 U.S.C. 1484(j). * * *

* * * * *

Robert C. Bonner,

Commissioner of Customs.

Approved: February 19, 2003.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 03–4318 Filed 2–24–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 311

[Administrative Instruction 81]

Privacy Act; Implementation

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: The Office of the Secretary of Defense is exempting two systems of records in its inventory of systems of records pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

EFFECTIVE DATE: January 28, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cragg at (703) 601–4722.

SUPPLEMENTARY INFORMATION: No comments were received during the public comment period, therefore, the rules are being adopted as published below.

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that Privacy Act rules for the Department of Defense

are not significant rules. The rules do not (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104–4, "Unfunded Mandates Reform Act"

It has been determined that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 311

Privacy.

Accordingly, 32 CFR part 311 is amended to read as follows:

PART 311—OSD PRIVACY PROGRAM

1. The authority citation for 32 CFR part 311 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Section 311.8 is amended by adding paragraphs (c)(12) and (c)(13) to read as follows:

§ 311.8 Procedures for exemptions.

* * * * *

(c) * * *

(12) *System identifier and name:* DFOISR 05, Freedom of Information Act Case Files.

(i) *Exemption:* During the processing of a Freedom of Information Act request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Office of the Secretary of Defense claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(13) *System identifier and name:* DFOISR 10, Privacy Act Case Files.

(i) *Exemption:* During the processing of a Privacy Act request (which may include access requests, amendment requests, and requests for review for initial denials of such requests), exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Office of the Secretary of Defense hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

Dated: February 6, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 03–4064 Filed 2–24–03; 8:45 am]

BILLING CODE 5001–08–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA159–4201a; FRL–7448–7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to the Air Resource Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Pennsylvania State Implementation Plan (SIP) submitted by the Pennsylvania Department of Environmental Protection (PADEP). The revision changes portions of Pennsylvania's air resource regulations. Specifically, today's action approves revised definitions related to ''major modification,'' ''modification,'' ''potential to emit,'' ''responsible official'' and ''secondary emissions'' as conforming to the Federal definitions of these terms. The changes will make Pennsylvania's regulations consistent with Federal requirements. EPA is approving this revision in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on April 28, 2003 without further notice, unless EPA receives adverse written comment by March 27, 2003. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Air Protection Division, Mail Code 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Pennsylvania Department of Environmental Protection, Bureau of Air Quality, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Michael I. Ioff, P.E., (215) 814–2166, or by e-mail at *ioff.mike@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

On March 6, 2000, PADEP submitted a formal revision to the Pennsylvania State Implementation Plan (SIP). The SIP revision consists of changes to Pennsylvania's air resource regulations.

II. Summary of SIP Revision

The changes to Chapter 121, section 121.1, relating to definitions, modify the definitions of ''major modification,'' ''modification,'' ''potential to emit,'' ''responsible official'' and ''secondary emissions'' to conform with the Federal definitions of these terms. In addition, the revised definition of ''major modification'' continues to remain more stringent than the corresponding Federal definition because it does not recognize the exclusion for combustion of municipal solid waste at steam generating units included in the Federal definition of ''major modification.'' Notwithstanding this particular minor deviation from the corresponding Federal definition, the changes approved by today's action make the definitions consistent with Federal definitions of these terms promulgated under the CAA.

III. Final Action

EPA is approving the revisions to the Commonwealth of Pennsylvania's air resource regulations submitted by PADEP on March 6, 2000. The revisions amend portions of Chapter 121, General Provisions, Section 121.1, Definitions. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on April 28, 2003 without further notice unless EPA receives adverse comment by March 27, 2003. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997),

because it is not economically significant.

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 28, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the revisions to Pennsylvania's air resource regulations may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: January 30, 2003.

Donald S. Welsh,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(197) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(197) Revisions to the Commonwealth of Pennsylvania Regulations pertaining to the Pennsylvania's air resource regulations submitted on March 6, 2000 by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of March 6, 2000 from the Pennsylvania Department of Environmental Protection transmitting revisions to the Commonwealth's Regulations pertaining to the Pennsylvania's air resource regulations.

(B) Revisions to 25 PA Code, Part I, Subpart C, Article III, effective December 27, 1997. Revisions to Chapter 121, General Provisions, Section 121.1, definitions for major modification, modification, potential to emit, responsible official and secondary emissions.

(ii) Additional Material—Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(197)(i) of this section.

[FR Doc. 03–4256 Filed 2–24–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–190; MM Docket No. 01–295; RM–10305; RM–10381]

Radio Broadcasting Services; Jayton, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document denies a petition for rule making filed at the request of Linda Crawford, proposing the allotment of FM Channel 231A to Jayton, Texas (RM–10305). *See* 66 FR 53755, October 24, 2001. In response to a counterproposal filed by Robert Fabian (RM–10381), this document allots Channel 231C2 to Jayton, Texas, as that community's first local aural transmission service. Our determination was premised on Commission policy which is to allot the highest class channel requested to a community that complies with the technical requirements of the Rules. Coordinates used for Channel 231C2 at Jayton, Texas, are 33–15–35 NL and 100–40–08 WL. With this action, this docketed proceeding is terminated.

DATES: Effective March 24, 2003. A filing window for Channel 231C2 at Jayton, Texas, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–295, adopted February 5, 2003, and released February 7, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893.

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, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Jayton, Channel 231C2.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–4366 Filed 2–24–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–191; MM Docket No. 01–21; RM–10050]

Radio Broadcasting Services; Genoa, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Genoa Broadcasting, allots Channel 288C3 at Genoa, Colorado, as the community's first local aural transmission service. See 66 FR 10659, February 16, 2001. Channel 288C3 can be allotted to Genoa in compliance with the Commission's minimum distance separation requirements with a site restriction of 21.3 kilometers (13.3 miles) northeast to avoid a short-spacing to the licensed site of Station KVAY(FM), Channel 289C1, Lamar, Colorado. The coordinates for Channel at Genoa are 39–23–06 North Latitude and 103–17–38 West Longitude.

DATES: Effective March 24, 2003.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–21, adopted February 5, 2003, and released February 7, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20054.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, 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. 54, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Genoa, Channel 288C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–4367 Filed 2–24–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1011

[STB Ex Parte No. 642]

Revision of Delegation of Authority Regulations

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rules.

SUMMARY: The Surface Transportation Board (Board) is revising its delegations of authority to authorize the Chairman to take necessary actions in emergency situations when the Chairman is the only Board member reasonably available, and, if no Board Member is available, delegates authority to take such actions to the Director of the Board's Office of Compliance and Enforcement (OCE).

EFFECTIVE DATE: These rules are effective on February 14, 2003.

FOR FURTHER INFORMATION CONTACT: Melvin F. Clemens, Jr., (202) 565–1573. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The Board is revising its delegations of authority at 49 CFR 1011.4 to authorize the Chairman to take necessary actions in emergency situations when the Chairman is the only Board member reasonably available. The delegations of authority, which were most recently revised in *Revision of Delegation of Authority Regulations*, STB Ex Parte No. 588 (STB served Sept. 25, 2002), set out the organization of the Board and procedures in processing cases, certain litigation, and informal opinions. Among other things, they authorize the Chairman, Vice Chairman, and designated staff to perform certain functions that would otherwise be performed by the entire Board.

The Board has broad economic regulatory responsibility over the railroad industry. Railroads play a vital role in the Nation's security and economic health. But the operations of rail carriers could be threatened or disrupted by terrorist activities or other public health or safety emergencies. Therefore, it is crucial that the Board develop procedures to ensure that the agency will be able to take necessary actions, within the scope of its authority, to address problems in the railroad industry in the event of emergencies.

Among the statutory responsibilities vested with the Board is the ability to direct preference or priority to certain traffic during time of war or threatened war (49 U.S.C. 11124) and, more generally, to direct the handling, routing, and movement of rail traffic in emergency situations (49 U.S.C. 11123). In the event of a terrorist attack or other emergency, however, it is possible that only one agency member would be available to act on a matter at any given time. To address this contingency, the Board is amending its delegations of authority by adding two new provisions. Under the new regulations, the Board is delegating to the Chairman the authority to take necessary actions if the other members are unavailable in the event of an emergency. Pursuant to the existing regulation at 49 CFR 1011.3(a)(3), that authority passes to the Vice Chairman if the Chairman is unavailable, and to the remaining Member if both the Chairman and the Vice Chairman are unavailable. The Board is also revising its delegations of authority at 49 CFR 1011.7, so that the Director of OCE would have the authority to issue orders under 49 U.S.C. 11123 and 11124 if no Board Member is available.

Because these changes relate primarily to rules of agency organization, procedure, or practice, and because advance notice and opportunity for public comment on the matter would be impracticable given the circumstances prevailing today, we find good cause to dispense with such notice and comment. *See* 5 U.S.C. 553(b)(B). Moreover, we find good cause for making these rules effective on less than 30 days' notice under 5 U.S.C. 553(d), so that these changes will become effective on February 14, 2003.

Copies of the Board's decision may be purchased from Da-2-Da Legal Copy Service by calling 202–293–7776 (assistance for the hearing impaired is available through FIRS at 1–800–877–8339) or visiting Suite 405, 1925 K Street, NW., Washington, DC 20006.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Act Certification

In accordance with Board procedures adopted in *Implementation of the Regulatory Flexibility Act*, STB Administrative Matter No. 3, STB Issuance No. 52 (STB served Nov. 8, 2002), the Board certifies that the amended rule adopted in this case will not have a significant economic impact on a substantial number of small entities. The amended delegations of authority relate primarily to rules of agency organization, procedure, or practice, and are designed simply to ensure continuity in carrying out necessary functions in the event of an emergency.

List of Subjects in 49 CFR Part 1011

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

Decided: February 14, 2003.

By the Board, Chairman Nober, Vice Chairman Burkes, and Commissioner Morgan.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, the Surface Transportation Board amends part 1011 of title 49, chapter X, of the Code of Federal Regulations as follows:

PART 1011—BOARD ORGANIZATION; DELEGATIONS OF AUTHORITY

1. The authority citation for part 1011 is revised to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 49 U.S.C. 701, 721, 11123, 11124, 11144, 14122, and 15722.

2. Amend § 1011.4 by adding a new paragraph (a)(9) to read as follows:

§ 1011.4 Delegations to individual Board Members.

(a) * * *

(9) Authority to act alone to take necessary actions in emergency situations when the Chairman is the only Board member reasonably available.

* * * * *

3. Amend § 1011.7 by adding a new paragraph (c)(5) to read as follows:

§ 1011.7 Delegations of authority by the Board to specific offices of the Board.

* * * * *

(c) * * *

(5) Issue orders by the Director in an emergency under 49 U.S.C. 11123 and 11124 if no Board Member is reasonably available.

[FR Doc. 03–4300 Filed 2–24–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021212307–2307–01; I.D. 021903A]

Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock sole/Flathead sole/''Other flatfish'' Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for species in the rock sole/flathead sole/''other flatfish'' fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the interim 2003 halibut bycatch allowance specified for the trawl rock sole/flathead sole/''other flatfish'' fishery category in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 18, 2003, until superseded by the notice of Final 2003 Harvest Specifications of Groundfish for the BSAI, which will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and CFR part 679.

The interim 2003 halibut bycatch allowance specified for the trawl rock sole/flathead sole/''other flatfish'' fishery category in the BSAI is 195 metric tons as established by the interim 2003 harvest specifications for Groundfish of the BSAI (67 FR 78739, December 26, 2002).

In accordance with § 679.21(e)(7)(ii)(B), the Administrator, Alaska Region, NMFS, has determined that the amount of the interim 2003 halibut bycatch allowance specified for the trawl rock sole/flathead sole/''other flatfish'' fishery category in the BSAI will be caught. Consequently, NMFS is closing directed fishing for species in the rock sole/flathead sole/''other flatfish'' fishery category by vessels using trawl gear in the BSAI.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the interim 2003 halibut bycatch allowance, and therefore reduce the public's ability to use and enjoy the fishery resource.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: February 19, 2003.

Richard W. Surdi,

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

[FR Doc. 03–4330 Filed 2–19–03; 4:34 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 68, No. 37

Tuesday, February 25, 2003

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 LABOR

Office of Labor-Management Standards

29 CFR Parts 403 and 408

RIN 1215–AB34

Labor Organization Annual Financial Reports; Extension of Comment Period

AGENCY: Office of Labor-Management Standards, Employment Standards Administration, Department of Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the period for comments on the proposed rule published on December 27, 2002 (67 FR 79280). That proposed rule would revise the annual financial reports labor organizations are required to file under the Labor-Management Reporting and Disclosure Act of 1959, as amended. The comment period, which was to expire on February 25, 2003, is extended 30 days to March 27, 2003. In addition, further information on the proposed revision of the reporting forms will be added to the rulemaking record and made available to the public.

DATES: Comments on the proposed rule published on December 27, 2002 (67 FR 79280) must be received on or before March 27, 2003.

ADDRESSES: Comments should be sent to Victoria A. Lipnic, Assistant Secretary for Employment Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5605, Washington, DC 20210.

All commenters are advised that U.S. mail delivery in the Washington, DC area has been slow and erratic due to the ongoing concerns involving anthrax contamination. All commenters must take this into consideration when preparing to meet the deadline for submitting comments. As a convenience to commenters, comments may be transmitted by e-mail to *FormLM2-comments@dol-esa.gov* or by facsimile (FAX) machine to (202) 693–1340. To assure access to the FAX equipment, only comments of five or fewer pages will be accepted via FAX transmittal, unless arrangements are made prior to faxing, by calling the number below and scheduling a time for fax receipt by OLMS.

It is recommended that you confirm receipt of your comment by contacting (202) 693–0122 (this is not a toll-free number). Individuals with hearing impairments may call 1–800–877–8339 (TTY/TDD).

Comments will be available for public inspection during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Victoria A. Lipnic, Assistant Secretary for Employment Standards, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N–5605, Washington, DC 20210, *olms-mail@dol-esa.gov,* (202) 693–0122 (this is not a toll-free number). Individuals with hearing impairments may call 1–800–877–8339 (TTY/TDD).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 27, 2002, (67 FR 79280) the Department published a notice of proposed rulemaking that would revise the annual financial reporting forms that labor organizations are required to file under the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). Interested persons were invited to submit comments on or before February 25, 2003, 60 days after the publication of the notice.

Because of continuing interest in the proposal, the Department has decided to extend the comment period for 30 days. This extension will also give the public time to review additional information regarding the proposed revision of the reporting forms that the Office of Labor-Management Standards has made available on its Web site at *http://www.olms.dol.gov.* (Anyone who is unable to access this information on the Internet can obtain the information by contacting the Employment Standards Administration at 200 Constitution Avenue, NW, Room N–5605, Washington, DC 20210, at *olms-mail@dol-esa.gov,* or at (202) 693–0122 (this is not a toll-free number). Individuals with hearing impairments may call 1–800–877–8339 (TTY/TDD).

Signed at Washington, DC, this 20th day of February, 2003.

Victoria A. Lipnic,

Assistant Secretary for Employment Standards.

[FR Doc. 03–4400 Filed 2–24–03; 8:45 am]

BILLING CODE 4510–CP–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA159–4201b; FRL–7448–8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to the Air Resource Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Pennsylvania for the purpose of modifying definitions related to ''major modification,'' ''modification,'' ''potential to emit,'' ''responsible official'' and ''secondary emissions.'' In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by March 27, 2003.

ADDRESSES: Written comments should be addressed to Makeba A. Morris, Chief, Permits and Technical Assessment Branch], Air protection Division, Mail Code 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this

action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Pennsylvania Department of Environmental Protection, Bureau of Air Quality, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Michael I. Ioff, P.E., (215) 814–2166, or by e-mail at *ioff.mike@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: January 30, 2003.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 03–4255 Filed 2–24–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–370; MB Docket No. 03–36; RM–10431]

Radio Broadcasting Services; Norfolk, NE and Woodbine, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed by Harrison County Radio, requesting the allotment of Channel 293A to Woodbine, Iowa, as that community's first local aural transmission service. The proposal also requires the reclassification of Station KEXL, Channel 294C, Norfolk, Nebraska, to specify operation on Channel 294C0, pursuant to reclassification procedures adopted by the Commission. *See Second Report and Order* in MM Docket 98–93 (*1998 Biennial Regulatory Review—Streamlining of RadioTechnical Rules in Parts 73 and 74 of the Commission's Rules*), 65 FR 79773 (2000). An *Order to Show* Cause was issued to WJAG, Inc., licensee of Station KEXL (RM–10431). The Wodbine, Iowa, proposal requires a site restriction 4.3 kilometers (2.7 miles) west of the community at coordinates 41–44–03 NL and 95–45–14 WL.

DATES: Comments must be filed on or before March 31, 2003, and reply comments on or before April 15, 2003. Any counterproposal filed in this proceeding need only protect Station KEXL, Norfolk, Nebraska as a Class C0 allotment.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioner and Station KEXL, as follows: Russell G. Johnson, Harrison County Radio, 1240 Loomis Ave., Des Moines, IA 50315; WJAG, Inc., Radio Station KEXL, 309 Braasch Avenue, P.O. Box 789, Norfolk, NE 68701.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03–36, adopted February 5, 2003, and released February 7, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR §§ 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by adding Woodbine, Channel 293A.

3. Section 73.202(b), the Table of FM allotments under Nebraska, is amended by removing Channel 294C and by adding Channel 294C0 at Norfolk.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–4363 Filed 2–24–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–369, MB Docket No. 03–35, RM–10646]

Radio Broadcasting Services; Florence, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by SSR Communications Incorporated proposing the allotment of Channel 237A at Florence, South Carolina, as that community's second FM commercial aural transmission service. The coordinates for Channel 237A at Florence are 34–12–00 North Latitude and 79–40–45 West Longitude. There is a site restriction 7.7 kilometers (4.8 miles) east of the community.

DATES: Comments must be filed on or before March 31, 2003, and reply comments on or before April 15, 2003.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: SSR Communications Incorporated, 5270 West Jones Bridge Road, Norcross, GA 30092–1628.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MB Docket No. 03–35, adopted February 5, 2003, and released February 7, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center 445

Twelfth Street, SW., Washington, DC 20554. The complete text of this decision 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 l980 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* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under South Carolina, is amended by adding Channel 237A at Florence.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–4364 Filed 2–24–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–366; MB Docket No. 02–158, RM 10383; MB Docket No. 02–159, RM–10471; MB Docket No. 02–160, RM–10472; MB Docket No. 02–161, RM–10473; MB Docket No. 02–162, RM–10474; MB Docket No. 02–163, RM–10475; MB Docket No. 02–165, RM–10477]

Radio Broadcasting Services; Austin; NV; Baker, NV; Battle Mountain; NV; Elkhart, KS; Eureka, NV; Fallon, NV; Moah, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: This document dismisses seven proposals. Sierra Grande Broadcasting filed petitions for rule making proposing the allotment of (1) Channel 263C1 at Elkhart, Kansas; (2) Channel 227C at Austin, Nevada; (3) Channel 296C at Baker, Nevada; (4) Channel 231C at Battle Mountain, Nevada; (5) Channel 300C at Eureka, Nevada; (6) Channel 297C at Fallon, Nevada; and (7) Channel 234C at Moab, Utah. *See* 67 FR 47502, July 19, 2002. Petitioner failed to file comments reaffirming its intention to apply for the specified channel, if allotted, or a motion was filed by petitioner withdrawing its proposal. A showing of continuing interest is required before a channel will be allotted. It is the Commission's policy to refrain from making an allotment to a community absent an expression of interest. Therefore, we dismiss the above-mentioned petitions.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 02–158; MB Docket No. 02–159; MB Docket No. 02–160; MB Docket No. 02–161; MB Docket No. 02–162; MB Docket No. 02–163; and MB Docket No. 02–165, adopted February 5, 2003, and released February 7, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–4365 Filed 2–24–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–368, MM Docket No. 01–225, RM–10253]

Radio Broadcasting Services; Hartshorne, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, dismissal.

SUMMARY: This document dismisses a pending petition for rulemaking to add an FM allotment in Hartshorne, Oklahoma. The Commission had requested comment on a petition filed by Maurice Salsa, proposing the allotment of Channel 252A at Hartshorne, Oklahoma. *See* 66 FR 48108, September 18, 2001. The petitioner filed comments in support of the proposal. No other comments were received. On January 14, 2003, petitioner filed a request for dismissal of its pending petition. This document grants that request, dismissing the petition and terminating the proceeding.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. The address of the petitioner is as follows: Maurice Salsa, 5615 Evergreen Valley Drive, Kingwood, Texas 75345.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–225, adopted February 5, 2002, and released February 7, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–4368 Filed 2–24–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–367, Docket No. 02–125, RM–10447]

Radio Broadcasting Services; Sutton, NE

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, dismissal.

SUMMARY: This document dismisses a pending petition for rulemaking to add an FM allotment in Sutton, Nebraska. The Commission had requested comment on a petition filed by Sutton Radio Company, proposing the allotment of Channel 278C2 at Sutton, Nebraska. *See* 67 FR 41364, June 18, 2002. The petitioner filed comments in support of the proposal. No other comments were received. On November 5, 2002, petitioner filed a request for dismissal of its pending petition. This document grants that request, dismissing the petition and terminating the proceeding.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 02–125, adopted February 5, 2002, and released February 7, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–4369 Filed 2–24–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI48

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Arizona Distinct Population Segment of the Cactus Ferruginous Pygmy-owl (Glaucidium brasilianum cactorum)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the extension of the public comment period for the proposal to designate critical habitat pursuant to the Endangered Species Act of 1973, as amended (Act), for the Arizona distinct population segment of the cactus ferruginous pygmy-owl (Glaucidium brasilianum cactorum), and for the draft economic analysis for the proposed designation. We are extending the comment period for the proposal and for the draft economic analysis to allow all interested parties additional time to provide comments. Comments previously submitted need not be resubmitted, because 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 proposed critical habitat designation and the draft economic analysis until April 25, 2003.

ADDRESSES: Send comments and information concerning the proposed critical habitat designation and draft economic analysis to the Field Supervisor, Arizona Ecological Services Office, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021. You also may send written comments by facsimile to 602/242–2513. For instructions on submitting comments by electronic mail (e-mail), see Public Comments Solicited in the **SUPPLEMENTARY INFORMATION** section of this notice.

You may obtain a copy of the draft economic analysis on the Internet at *http://arizonaes.fws.gov/cactus.htm*, or you may write the Field Supervisor at the above address, or call 602/242–0210 to have a copy mailed to you or made available for you to pick up at the address above. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Steve Spangle, Field Supervisor (see **ADDRESSES**), at telephone 602/242–0210; or by facsimile at 602/242–2513.

SUPPLEMENTARY INFORMATION: Our proposal to designate critical habitat for the Arizona distinct population segment of the cactus ferruginous pygmy-owl (Glaucidium brasilianum cactorum) (pygmy-owl) was published on November 27, 2002 (67 FR 71032). In the November proposal we also announced the availability of the draft economic analysis for the proposed designation of critical habitat. The current comment period on these two documents is scheduled to close on February 25, 2003.

A court order issued on September 21, 2001, vacated the critical habitat established previously for the pygmy-owl and remanded the previous designation to us for preparation of a new analysis of the economic and other effects of the designation (*National Association of Home Builders et al.* v. *Norton*, Civ. No. 00–903–PHX–SRB). The proposed designation that we published in November of 2002 totals approximately 488,863 hectares (ha) (1,208,000 acres (ac)) in portions of Pima and Pinal Counties, Arizona, and includes approximately 9 percent of the recognized historical range of the pygmy-owl in Arizona.

On February 3, 2003, the United States District Court for the District of Arizona ordered us to extend the comment period to allow the Plaintiffs and Intervenors in *National Home Builders Association* v. *Norton*, Civ. No. 00–0903–PHX–SRB (D. Az.), 60 additional days to review and comment on materials used by us to develop our critical habitat determination for the pygmy-owl. Therefore, we are extending the public comment period for 60 days, until April 25, 2003.

Public Comments Solicited

We are extending the comment period in order to accept the best and most current scientific and commercial data available regarding the proposed critical habitat designation for the pygmy-owl and the draft economic analysis of the proposal. The Public Comments Solicited section of the preamble to our proposed rule includes a list of topics for which we are particularly seeking comments. Previously submitted comments need not be resubmitted. You may submit written comments by any of several methods:

You may mail or hand-deliver written comments to the Field Supervisor, Arizona Ecological Services Office (see **ADDRESSES** section). Hand deliveries must be made during normal business hours.

You may send comments by e-mail to *cfpo_habitat@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.

You may send written comments by facsimile to 602/242–2513.

Prior to making a final determination on this proposed rule, we will take into consideration all relevant comments and additional information received during the comment period. You may inspect comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, 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: February 20, 2003.

Julie A. MacDonald,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 03–4539 Filed 2–24–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 030210027–3027–01; I.D. 012103E]

RIN 0648–AQ35

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 37 to the Northeast Multispecies Fishery Management Plan

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement measures contained in Framework Adjustment 37 (Framework 37) to the Northeast Multispecies Fishery Management Plan (FMP) to eliminate the Year–4 default measure for whiting in both stock areas; reinstate the Cultivator Shoal whiting fishery (CSWF) season through October 31; eliminate the 10–percent restriction on red hake incidental catch in the CSWF; adjust the incidental catch allowances in Small Mesh Areas 1 and 2 so that they are consistent with those in the Cape Cod Bay raised footrope trawl fishery; clarify the transfer-at-sea provisions for small-mesh multispecies for use as bait; and slightly modify the Cape Cod Bay raised footrope trawl fishery area.

DATES: Comments on this proposed rule must be received on or before March 27, 2003.

ADDRESSES: Copies of the Framework 37 document, its Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA) and supplement to the IRFA prepared by NMFS , the Environmental Assessment, and other supporting documents for the framework adjustment are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. These documents are also available online at *http://www.nefmc.org.*

This action is also based upon analyses conducted in support of Amendment 12 to the FMP. Copies of the Amendment 12 document, its RIR, IRFA and the July 1, 1999, supplement to the IRFA prepared by NMFS, the Final Supplemental Environmental Impact Statement (FSEIS), and other supporting documents for Amendment 12 are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The Final Regulatory Flexibility Analysis for Amendment 12 consisted of the IRFA, public comments and responses contained in the final rule implementing Amendment 12 (65 FR 16766, March 29, 2000), and the summary of impacts and alternatives in that final rule.

Written comments on the proposed rule should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Framework 37.'' Comments may also be sent via facsimile (fax) to (978) 281–9135. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, Fishery Policy Analyst, 978–281–9272.

SUPPLEMENTARY INFORMATION: Amendment 12 was developed to address the overfished condition of red hake and the southern stock of whiting, to reduce fishing mortality on northern whiting, which was approaching an overfished condition, and to establish management measures for offshore hake. The final rule implementing Amendment 12, which was partially approved by NMFS on behalf of the Secretary of Commerce on September 1, 1999, was published on March 29, 2000 (61 FR 16766), and became effective on April 28, 2000. The New England Fishery Management Council (Council) intended for the measures in Amendment 12 to achieve the target fishing mortality rates (F) for whiting within 4 years of implementation and to rebuild whiting and red hake stocks within 10 years.

Under Amendment 12, fishing with small mesh is regulated in the North Atlantic region through the establishment of three large ''Regulated Mesh Areas.'' In the Gulf of Maine/Georges Bank (GOM/GB) Regulated Mesh Area, vessels may fish for whiting with nets that have less than the minimum mesh size of 6–inch (15.24–cm) diamond mesh or 6.5–inch (16.51–cm) square mesh when participating in certain exempted fisheries. The GOM/GB exempted fisheries for whiting include: The Small Mesh Northern Shrimp Fishery, the CSWF, the Small Mesh Area 1/Small Mesh Area 2 Exemptions, and the Raised Footrope Trawl Whiting Fishery. The CSWF has a 3–inch (7.62–cm) minimum mesh size, and the Raised Footrope Trawl Whiting Fishery has a 2.5–inch (6.35–cm) minimum mesh size. In the Southern New England Regulated Mesh Area, vessels are exempt from the minimum mesh size requirement throughout the area when fishing for exempted species, which include whiting and offshore hake. Finally, in the Mid-Atlantic Regulated Mesh Area, vessels may fish for whiting and offshore hake with nets of mesh less than the minimum size when not fishing under a multispecies day-at-sea (DAS), provided that the vessel does not possess or land regulated multispecies.

Amendment 12 includes three possession limits, depending upon the minimum mesh size used. Vessels may possess and land up to a combined total of 3,500 lb (1,588 kg) of whiting and offshore hake when fishing with mesh less than 2.5 inches (6.35 cm). Vessels may possess and land up to a combined total of 7,500 lb (3,402 kg) of whiting and offshore hake when fishing with mesh equal to or greater than 2.5 inches (6.35 cm) and less than 3.0 inches (7.62

cm). Vessels may possess and land up to a combined total of 30,000 lb (13,608 kg) of whiting and offshore hake when fishing with mesh equal to or greater than 3.0 inches (7.62 cm). These possession limits were intended to provide an incentive for vessels to utilize the larger 3–inch (7.62–cm) mesh when fishing for whiting to minimize the catch of small whiting. Because red hake is primarily an incidental species caught in whiting and other small-mesh fisheries, the measures to protect whiting are expected to simultaneously protect red hake. Offshore hake, a species similar to whiting, was included in the management measures to provide basic protection for the species and to ensure that misidentification of offshore hake is accounted for.

Amendment 12 established the Whiting Monitoring Committee (WMC) to review the effectiveness of management measures and to recommend adjustments. Such reviews occur annually, beginning in 2001. The Council expected that the measures in Years 1, 2, and 3 would reduce exploitation by at least 50 percent of the required amount and that annual adjustments would indicate whether further management measures were needed. To ensure attainment of the FMP's mortality objectives, the default measures were developed for Year 4. The Council expected, and Amendment 12 specified, that the WMC would meet during the third year to determine whether the Year 4 default measures would be necessary. Furthermore, during the third year, and based upon the effectiveness of the first three years of management, the WMC was charged with considering and recommending, if appropriate, small-mesh multispecies measures for Year 4, other than the default measures, to achieve the F targets.

The Year 4 default measures would prohibit vessels from using nets with mesh size less than 3 inches (7.62 cm) (square or diamond) in most fisheries operating within the three Regulated Mesh Areas in New England and Mid-Atlantic waters and impose a 10,000–lb (4,536–kg) combined possession limit in most fisheries on whiting and offshore hake. In addition, the existing possession limit for whiting and offshore hake in the Small Mesh Northern Shrimp Fishery would be reduced from an amount equal to the total weight of shrimp on board (not to exceed 3,500 lb (1,588 kg)) to 100 lb (45.3 kg). Under the regulations that implement Amendment 12, these measures would become effective May 1, 2003, unless superseded by revised measures.

The analyses in Amendment 12 indicated that substantial negative economic and social impacts would be likely to result from implementing the Year–4 default measure. The default measure would be expected to generate large losses of not only small-mesh multispecies, but also other small mesh species, such as squid. Shinnecock, NY, would be projected to experience the largest reductions in landings of all species combined from the Year 4 default measure (39.4 percent), followed by Greenport, NY (36.7 percent), Point Judith, RI (32.8 percent), Montauk, NY (25.9 percent), Gloucester, MA (16.4 percent), Portland, ME (14.8 percent), Provincetown, MA (11.5 percent), Cape May, NJ (9.7 percent), Point Pleasant, NJ (8.0 percent), and Belford, NJ (7.2 percent). Although Connecticut ports could not be analyzed due to data limitations, it is likely that the default measure would produce similar impacts in the ports of Stonington and New London.

In September 2002, the WMC released the 2002 Stock Assessment and Fishery Evaluation (SAFE) Report for small-mesh multispecies, which represents the WMC's third year review and includes recommendations regarding the Year 4 default measure (see Appendix I to Framework 37). The WMC determined that the fishing mortality objectives of Amendment 12 appear to have been achieved, based on the evaluation of relative exploitation indices as a proxy for fishing mortality.

The northern stock of whiting (as well as the northern stock of red hake) is considered to be ''rebuilt,'' or above its target biomass level according to the Amendment 12 overfishing definition. The relative exploitation of northern whiting is far below the target value that the WMC set as a proxy for FMSY, so overfishing is not thought to be occurring (see Table 19, p.31 of the SAFE Report). The current relative exploitation index is only 11 percent of the WMC's FMSY proxy. With respect to management thresholds, targets, and biological objectives, exploitation of the northern stock of whiting could be increased. The WMC concluded, therefore, that the Year 4 default measure is not necessary to further reduce effort on the northern stock of whiting.

The southern stock of whiting is not considered to be in an overfished condition, according to the Amendment 12 overfishing definition based on a 3–year moving average of the trawl survey index. The 3–year moving average of the trawl survey index increased from 0.63 in 1998 to 1.27 in 2001. Currently, the stock is at 71 percent of its biomass target. The relative exploitation of southern whiting is below the target value that the WMC set as a proxy for a target fishing mortality rate (see Table 19, p.31 of the SAFE Report), so overfishing is not thought to be occurring on the southern stock. The current relative exploitation index is 47 percent of the WMC's target for this stock. While the information that the WMC evaluated suggests that exploitation could increase in the southern area, this stock has not yet rebuilt to its target level, so increases in exploitation are not recommended. Perceptions about the current biomass status of the southern stock hinge on a very high autumn 2001 survey value, which increased the 3–year moving average above the overfishing definition biomass threshold. It is too early to conclude whether the high survey value in autumn 2001 is a product of survey variability or a true indication of increasing biomass in the southern area. Several additional survey points will be necessary to make such a determination. Although the WMC does not support increasing whiting exploitation in the southern area, it agrees that the Year 4 default measure is not necessary to further reduce effort.

Northeast multispecies regulations, including those for small-mesh multispecies, are such that Council action (through a framework adjustment or amendment) is required to prevent the Year 4 default measure from becoming effective on May 1, 2003, in both the northern and southern stock areas. In preparation for the third year review by the WMC and in anticipation of an action to address the default measure, the Council approved the following motion at its March 19–20, 2002, meeting:

That the Council initiate a framework adjustment process to develop a management strategy that responds to the Year 4 management measures contained in the whiting plan and allows for potential development of new whiting fishing areas.

The WMC presented its findings and recommendations to the Council at the September 10–12, 2002, meeting, which was the first meeting for Framework 37. (The WMC's findings and recommendations can be found in their entirety in Appendix I to the Framework 37 document.)

The purpose of this framework adjustment is to eliminate the Year 4 default measure in both whiting stock areas and to implement FMP adjustments to allow for moderate increases in effort on small-mesh multispecies in the northern stock area. This adjustment is necessary because

current regulations specify that the Year 4 default measure will become effective in both stock areas on May 1, 2003, unless a Council action modifies or eliminates it.

This proposed rule would also reinstate the CSWF season through October 31; eliminate the 10–percent restriction on red hake incidental catch in the CSWF; adjust the incidental catch allowances in Small Mesh Areas 1 and 2 so that they are consistent with those in the Cape Cod Bay raised footrope trawl fishery; clarify the transfer-at-sea provisions for small-mesh multispecies for use as bait; and slightly modify the Cape Cod Bay raised footrope trawl fishery area.

Prior to Amendment 12, the season for the CSWF was June 15–October 31. Amendment 12 shortened the season to September 30 as an effort reduction measure. This action would reinstate the month of October to the CSWF, which would provide increased economic opportunity for participating vessels. Further discussion occurs in the Classification section, below.

Currently, participants in the CSWF are limited in terms of their red hake landings to 10 percent by weight of all other fish on board. According to the WMC, there is no biological reason to restrict the catch of red hake at this time. The current restriction on red hake landings may cause discards in the CSWF. Because of market limitations, it is unlikely that the proposed action would encourage directed fishing on red hake. This action also would simplify and improve the consistency of regulations for exempted fisheries in the northern stock area since no other exempted small mesh fishery in the northern area includes such a restriction on red hake landings.

Three of the four exempted whiting fisheries in the northern area currently require the use of a raised footrope trawl to minimize bycatch of groundfish. However, the incidental catch allowances for these three fisheries are not consistent with each other. The incidental catch allowances for the Cape Cod Bay raised footrope trawl fishery were established to discourage vessels from rigging their gear improperly and allowing it to fish on the ocean bottom. As a result, bottom-dwelling species, such as lobster and monkfish, are prohibited in the Cape Cod Bay raised footrope trawl fishery. Because Small Mesh Areas 1 and 2 require the raised footrope trawl, the Council felt it appropriate to allow the same incidental catch species for Small Mesh Areas 1 and 2 and to provide the same incentives for fishing the required gear properly. Specifically, monkfish, lobster, ocean pout, and sculpin would no longer be allowed to be taken as incidental catch in Small Mesh Areas 1 and 2. The following species would be the only allowable incidentally caught species in these areas: Red hake, squid, butterfish, mackerel, dogfish, herring, and scup.

Clarification of the transfer at sea provisions for small-mesh multispecies represents the status quo for vessels that are currently engaged in this activity. Vessels would be allowed to transfer 500 lb (226.8 kg) of whiting and unlimited amounts of red hake at sea for use as bait.

The slight area modification to the Cape Cod Bay raised footrope trawl fishery would provide Provincetown fishermen with improved access to this fishery in times of inclement and unpredictable weather, thereby promoting the safety of the Provincetown vessels, which tend to be smaller and older than vessels from other ports. Specifically, the southern boundary of the area would move from the Loran 44100 line to the 42° N. latitude line, creating a ''lee'' by opening a triangle-shaped area totaling 5.5 square miles.

Classification

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

The Council prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. In addition, NMFS, in consultation with the Council, prepared a supplement to the IRFA, which includes further information considered by the Council related to the decision on whether or not to propose a change to the CSWF possession limit. A description of the reasons why this action is being considered, and the objectives of and legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. There are no new recordkeeping or reporting requirements proposed in this rule. There are no relevant Federal rules that duplicate, overlap, or conflict with this rule. All vessels impacted by this rulemaking are considered to be small entities; therefore, there are no impacts resulting from the effects of disproportionality between large and small entities. A summary of the analysis follows:

NMFS and the Council prepared an economic analysis for Amendment 12, which indicated that implementation of the amendment, including the restrictive Year 4 default measures, would have a significant economic impact on a substantial number of small entities. Since costs of individual vessel operations were not available, gross revenues were used as a proxy for profitability The analysis indicated that 1,156 participating small entities reported landings of one or more combined pounds of whiting, red hake, and offshore hake during the calendar years 1995 to 1997. The management measures proposed for Years 1–3 were estimated to ''substantially'' reduce gross revenues from all species for 81 vessels. If the default measures were to be implemented, 222 vessels would be likely to experience a substantial reduction in annual gross revenues.

Framework adjustment 37 proposes to eliminate the Year 4 default measures for small-mesh multispecies in both the northern and southern whiting stock areas, and to adjust measures to allow increased opportunities to fish for small-mesh multispecies in the northern area. A summary of the economic impacts of the measures to be substituted for the Year 4 default measures follow.

Impacts of Reinstating the CSWF Season

Adjustments to measures in the CSWF increase economic opportunities for affected entities. An average of 16 vessels participated in the CSWF from 1995–2001; 25 vessels participated in the fishery during 2001. Reinstating October to the CSWF season would have beneficial economic effects for vessels that had traditionally prosecuted the fishery during October and would increase economic opportunity for other vessels that are able to participate. Maintaining the current CSWF season (through September 30) would result in fewer opportunities to harvest whiting and lost economic opportunities for fishermen who otherwise would participate in the CSWF.

Impacts of Eliminating the Restriction on Red Hake Incidental Catch Allowance in the CSWF

Landings data for red hake do not indicate that the current incidental catch allowance is a constraint to increased retention of red hake. Elimination of the red hake incidental catch allowance in the CSWF would permit vessels to increase trip profits on the occasions where the current incidental catch allowance would be exceeded. For this reason, removal of the incidental catch allowance would not be likely to result in any market effects but would permit vessels to increase trip income on the occasions where the current allowance would be exceeded.

Impacts of Modifying Incidental Catch Allowances for Small Mesh Areas 1 and 2

The proposed modifications to the incidental catch allowances in Small Mesh Areas 1 and 2 may have some negative economic impacts since monkfish and lobster would be prohibited (78 vessels fished in Small Mesh Areas 1 and 2 during 2000). For the period 1998–2001, the landed value of lobster and monkfish from these fisheries has averaged about $30,000 annually, based on an average of 1,800 trips per year. Given the low level of revenues from these species in Small Mesh Areas 1 and 2, it is expected that this action will have only a minimal impact on vessel profitablity. It is unlikely that the proposed change in catch allowances would have any substantial impact on gross revenues from all sources of fishing income for vessels participating in this fishery. However, at a trip-level, there may be some occasions where revenues from monkfish or lobster could affect vessel profitability for a given trip. In these cases, eliminating the incidental catch allowance would have a negative economic impact, as the trip may be abandoned. This outcome is difficult to predict.

Impacts of Clarifying the Transfer at Sea Provisions for Small-Mesh Multispecies

Clarification of the transfer at sea provisions for small-mesh multispecies would allow vessels to transfer 500 lb (226.8 kg) of whiting and unlimited amounts of red hake at sea for use as bait and would represent the status quo for vessels that are currently engaged in this activity. Minimal impacts would be expected.

Impacts of Area Modification to the Cape Cod Bay Raised Footrope Trawl Fishery

The southern boundary of the Cape Cod Bay Raised Footrope Trawl Fishery area would move from the Loran 44100 line to the 42° N. latitude line, creating a ''lee'' by opening a triangle-shaped area totaling 5.5 square miles. This slight area modification would likely produce small but positive economic impacts to vessels prosecuting this fishery.

Impacts of Retention of the 30,000 Possession Limit for the CSWF

The Council concluded that the proposed retention of the status quo 30,000–lb (13.6 mt) possession limit for the CSWF would have no economic impact to present participants in the fishery since gross revenues are not expected to change under this trip limit. The Council also considered but rejected four alternatives to the proposed possession limit including a default possession limit of 10,000 lb (4.5 mt) and three higher possession limits, ranging from 50,000 to 90,000 lb (22.7 to 40.8 mt). The Council determined that the 10,000 lb (4.5 mt) default possession limit, which was previously analyzed in Amendment 12 to the FMP, would have substantially negative impacts resulting from an estimated 20,000 lb (9 mt) or 67 percent reduction in the possession limit. Some fishing vessel owners believe that retention of the current 30,000 lb (13.6 mt) possession limit would continue to serve as a disincentive for them to participate in the CSWF by restricting their potential profitability. However, the Council concluded that under higher possession limits, the majority of present participants in the fishery could suffer substantial decreases in gross revenues and resulting profitability due to disproportionate decreases in whiting prices when large amounts of product are introduced simultaneously into the market. This was the case prior to the introduction of the possession limit in 2000.

List of Subjects in 50 CFR Part 648

Fishing, Fisheries, Reporting and recordkeeping requirements.

Dated: February 14, 2003.

Rebecca Lent,

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

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.13, paragraph (b)(2) introductory text is revised to read as follows:

§ 648.13 Transfers at sea.

* * * * *

(b) * * *

(2) Vessels issued a Federal multispecies permit under § 648.4(a)(1) may transfer from one vessel to another, for use as bait, up to 500 lb (226.8 kg) of silver hake and unlimited amounts of red hake, per trip, provided:

* * * * *

§ 648.14 [Amended]

3. In § 648.14, paragraph (z)(2) is removed and reserved.

4. In § 648.80,

a. Revise paragraphs (a)(5)(i), (a)(6)(i), (a)(8)(i) and (a)(8)(ii), (a)(9)(i) and (a)(9)(ii) introductory text, (a)(10)(i)(D), and (a)(15) introductory text and (a)(15)(i)(B). Paragraph (a)(15)(i)(C) is removed and reserved.

b. Revise paragraph (b)(3)(i) to read as follows:

§ 648.80 Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) * * *

(5) * * *

(i) *Restrictions on fishing for, possessing, or landing fish other than shrimp.* An owner or operator of a vessel fishing in the northern shrimp fishery under the exemption described in this paragraph (a)(5) may not fish for, possess on board, or land any species of fish other than shrimp, except for the following, with the restrictions noted, as allowable incidental species: Longhorn sculpin; combined silver hake and offshore hake—up to an amount equal to the total weight of shrimp possessed on board or landed, not to exceed 3,500 lb (1,588 kg); and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter. Silver hake and offshore hake on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

* * * * *

(6) * * *

(i) *Requirements.* (A) A vessel fishing in the Cultivator Shoal Whiting Fishery Exemption Area under this exemption must have on board a valid letter of authorization issued by the Regional Administrator.

(B) An owner or operator of a vessel fishing in this area may not fish for, possess on board, or land any species of fish other than whiting and offshore hake combined—up to a maximum of 30,000 lb (13,608 kg), except for the following, with the restrictions noted, as allowable incidental species: Herring; longhorn sculpin; squid; butterfish; Atlantic mackerel; dogfish; red hake; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

(C) Counting from the terminus of the net, all nets must have a minimum mesh size of 3–inch (7.6–cm) square or diamond mesh applied to the first 100 meshes (200 bars in the case of square mesh) for vessels greater than 60 ft (18.28 m) in length applied to and the first 50 meshes (100 bars in the case of square mesh) for vessels less than or equal to 60 ft (18.3 m) in length.

(D) Fishing is confined to a season of June 15 through October 31, unless otherwise specified by notification in the **Federal Register**.

(E) When a vessel is transiting through the GOM or GB Regulated Mesh Areas specified under paragraphs (a)(1) and (a)(2) of this section, any nets with a mesh size smaller than the minimum mesh specified in paragraphs (a)(3) or (a)(4) of this section must be stowed in accordance with one of the methods specified in § 648.23(b), unless the vessel is fishing for small-mesh multispecies under another exempted fishery specified in this paragraph (a).

(F) A vessel fishing in the Cultivator Shoal Whiting Fishery Exemption Area may fish for small-mesh multispecies in exempted fisheries outside of the Cultivator Shoal Whiting Fishery Exemption Area, provided that the vessel complies with the requirements specified in this paragraph (a)(6)(i) for the entire trip.

* * * * *

(8) * * *

(i) *Regulated multispecies.* An exemption may be added in an existing fishery for which there are sufficient data or information to ascertain the amount of regulated species bycatch, if the Regional Administrator, after consultation with the NEFMC, determines that the percentage of regulated species caught as bycatch is, or can be reduced to, less than 5 percent, by weight, of total catch and that such exemption will not jeopardize fishing mortality objectives. In determining whether exempting a fishery may jeopardize meeting fishing mortality objectives, the Regional Administrator may take into consideration various factors including, but not limited to, juvenile mortality. A fishery can be defined, restricted, or allowed by area, gear, season, or other means determined to be appropriate to reduce bycatch of regulated species. An existing exemption may be deleted or modified if the Regional Administrator determines that the catch of regulated species is equal to or greater than 5 percent, by weight, of total catch, or that continuing the exemption may jeopardize meeting fishing mortality objectives. Notification of additions, deletions or modifications will be made through issuance of a rule in the **Federal Register**.

(ii) The NEFMC may recommend to the Regional Administrator, through the framework procedure specified in § 648.90(b), additions or deletions to exemptions for fisheries, either existing or proposed, for which there may be insufficient data or information for the Regional Administrator to determine, without public comment, percentage catch of regulated species.

* * * * *

(9) * * *

(i) *Description.* (A) Unless otherwise prohibited in § 648.81, a vessel subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (a)(4) of this section may fish with or possess nets with a mesh size smaller than the minimum size, provided the vessel complies with the requirements of paragraphs (a)(5)(ii), or (a)(9)(ii) of this section and of § 648.86(d), from July 15 through November 15, when fishing in Small Mesh Area 1, and from January 1 through June 30, when fishing in Small Mesh Area 2. While lawfully fishing in these areas with mesh smaller than the minimum size, an owner or operator of any vessel may not fish for, possess on board, or land any species of fish other than: Silver hake and offshore hake--up to the amounts specified in § 648.86(d); butterfish; dogfish; herring; Atlantic mackerel; scup; squid; and red hake.

(B) Small-mesh areas 1 and 2 are defined by straight lines connecting the following points in the order stated (copies of a chart depicting these areas are available from the Regional Administrator upon request (see Table 1 to § 600.502 of this chapter)):

Small Mesh Area I

Point N. Lat. W. Long.
SM1 43°03′ 70°27′
SM2 42°57′ 70°22′
SM3 42°47′ 70°32′
SM4 42°45′ 70°29′
SM5 42°43′ 70°32′
SM6 42°44′ 70°39′
SM7 42°49′ 70°43′
SM8 42°50′ 70°41′
SM9 42°53′ 70°43′
SM10 42°55′ 70°40′
SM11 42°59′ 70°32′
SM1 43°03′ 70°27′

Small Mesh Area II

Point N. Lat. W. Long.
SM13 43°05.6′ 69°55′
SM14 43°10.1′ 69°43.3′
SM15 42°49.5′ 69°40′
SM16 42°41.5′ 69°40′
SM17 42°36.6′ 69°55′
SM13 43°05.6′ 69°55′

(ii) *Raised footrope trawl.* Vessels fishing with trawl gear must configure it in such a way that, when towed, the gear is not in contact with the ocean bottom. Vessels are presumed to be fishing in such a manner if their trawl gear is designed as specified in paragraphs (a)(9)(ii)(A) through (D) of this section and is towed so that it does not come into contact with the ocean bottom.

* * * * *

(10) * * *

(i) * * *

(D) *Incidental species provisions.* The following species may be possessed and landed, with the restrictions noted, as allowable incidental species in the Nantucket Shoals Dogfish Fishery Exemption Area: Longhorn sculpin; silver hake—up to 200 lb (90.7 kg); monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter; and skate or skate parts—up to 10 percent, by weight, of all other species on board.

* * * * *

(15) *Raised Footrope Trawl Exempted Whiting Fishery.* Vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (a)(4) of this section may fish with, use, or possess nets in the Raised Footrope Trawl Whiting Fishery area with a mesh sze smaller than the minimum size specified, if the vessel complies with the requirements specified in paragraph (a)(15)(i) of this section. This exemption does not apply to the Cashes Ledge Closure Areas or the Western GOM Area Closure specified in § 648.81(h) and (i). The Raised Footrope Trawl Whiting Fishery Area (copies of a chart depicting the area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

RAISED FOOTROPE TRAWL WHITING FISHERY EXEMPTION AREA

(September 1 through November 20)

Point N. Lat. W. Long.

RF1 42°14.05′ 70°08.8′
RF2 42°09.2′ 69°47.8′
RF3 41°54.85′ 69°35.2′
RF4 41°41.5′ 69°32.85′
RF5 41°39′ 69°44.3′
RF6 41°45.6′ 69°51.8′
RF7 41°52.3′ 69°52.55′
RF8 41°55.5′ 69°53.45′

RF9 42°08.35′ 70°04.05′
RF10 42°04.75′ 70°16.95′
RF11 42°00′ 70°13.2′
RF12 42°00′ 70°24.1′
RF13 42°07.85′ 70°30.1′
RF1 42°14.05′ 70°08.8′

RAISED FOOTROPE TRAWL WHITING FISHERY EXEMPTION AREA

(November 21 through December 31)

Point N. Lat. W. Long.

RF1 42°14.05′ 70°08.8′
RF2 42°09.2′ 69°47.8′
RF3 41°54.85′ 69°35.2′
RF4 41°41.5′ 69°32.85′
RF5 41°39′ 6°44.3′
RF6 41°45.6′ 69°51.8′
R7F 41°52.3′ 69°52.55′
RF8 41°55.5′ 69°53.45′
RF9 42°08.35′ 70°04.05′
RF1 42°14.05′ 70°08.8′

(i) * * *

(B) All nets must be no smaller than a minimum mesh size of 2.5-inch (6.35-cm) square or diamond mesh, subject to the restrictions as specified in paragraph (a)(14)(i)(D) of this section. An owner or operator of a vessel enrolled in the raised footrope whiting fishery may not fish for, possess on board, or land any species of fish other than whiting and offshore hake subject to the applicable possession limits as specified in § 648.86, except for the following allowable incidental species: Red hake; butterfish; dogfish; herring; mackerel; scup; and squid.

(b) * * *

(3) *Exemptions*—(i) *Species exemptions.* Owners and operators of vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(4) and (b)(2) of this section, may fish for, harvest, possess, or land butterfish, dogfish (trawl only), herring, Atlantic mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake and offshore hake, and weakfish with nets of a mesh size smaller than the minimum size specified in the GB and SNE Regulated Mesh Areas when fishing in the SNE Exemption Area defined in paragraph (b)(10) of this section, provided such vessels comply with requirements specified in paragraph (b)(3)(ii) of this section and with the mesh size and possession limit restrictions specified under § 648.86(d).

* * * * *

[FR Doc. 03–4332 Filed 2–24–03; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 68, No. 37
Tuesday, February 25, 2003

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

Food Safety and Inspection Service

[Docket No. 03–005N]

Listeria Risk Assessment Technical Meeting—Notice of Availability and Public Meeting; Correction

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Food Safety and Inspection Service (FSIS) published a document in the **Federal Register** of February 6, 2003 concerning a *Listeria* risk assessment technical meeting and availability of, and request for public comment on, its draft risk assessment for *Listeria*.

The document contained the incorrect comment due date for comments on the draft risk assessment.

FOR FURTHER INFORMATION CONTACT: Moshe Dreyfuss at (202) 205–0260.

Correction

In the **Federal Register** of February 6, 2003, (68 FR 6109), in the second column, in the **DATES** paragraph, the comment due date is incorrect and should read ''Submit written comments on the draft risk assessment on or before Friday, March 14, 2003.''

Done at Washington, DC, on: February 21, 2003.

Linda M. Swacina,

Associate Administrator.

[FR Doc. 03–4540 Filed 2–21–03; 2:14 pm]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes and Ochoco National Forests Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes and Ochoco National Forests Resource Advisory Committee will meet in Redmond, Oregon. The purpose of the meeting is to discuss the Committee's process for reviewing and recommending projects under Title II of the Secure Rural Schools and Community Self-Determination Act of 2000.

DATES: The meeting will be held March 18, 2003 from 1 p.m. to 5 p.m.

ADDRESSES: The meeting will be held at the office of the Central Oregon Intergovernmental Council, 2363 SW Glacier Place, Redmond, Oregon 97756. Send written comments to Leslie Weldon, Designated Federal Official for the Deschutes and Ochoco National Forests Resource Advisory Committee, c/o Forest Service, USDA, Deschutes National Forest, 1645 Highway 20 East, Bend, OR 97701 or electronically to *lweldon@fs.fed.us*.

FOR FURTHER INFORMATION CONTACT: Leslie Weldon, Designated Federal Official, Deschutes National Forest, 541–383–5512.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring Title II matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. A public input session will be provided and individuals who made written requests by March 11 will have the opportunity to address the Committee at the session.

Dated: February 14, 2003.

Leslie A.C. Weldon,

Forest Supervisor, Deschutes National Forest.

[FR Doc. 03–4343 Filed 2–24–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–877]

Correction: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Lawn and Garden Steel Fence Posts from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 4, 2002.

SUMMARY: The Department is correcting the scope of the investigation as published in the notice of preliminary determination of sales at less than fair value in Lawn and Garden Steel Fence Posts from the People's Republic of China.

FOR FURTHER INFORMATION CONTACT: Salim Bhabhrawala or Christopher Smith, at (202) 482–1784 or (202) 482–0421, respectively; AD/CVD Enforcement Office V, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On December 4, 2002, the Department of Commerce (the Department) issued the preliminary determination for the antidumping duty investigation of Lawn and Garden Steel Fence Posts from the People's Republic of China (PRC) for the period of October 1, 2001, through March 31, 2002. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Lawn and Garden Steel Fence Posts from the People's Republic of China (Preliminary Determination)*, 67 FR 72141 (December 4, 2002). The notice failed to reflect the fact that on June 24, 2002, the U.S. International Trade Commission (ITC) found that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the PRC of U-shaped or hat-shaped lawn and garden fence posts made of steel and/or any other metal, weighing one pound or less per foot. However, the ITC also ruled that there was not a reasonable indication that an industry in the

United States was materially injured or threatened with material injury by reason of imports from the PRC of other fence posts made of steel and/or other metal including ''tee'', farm, and sign posts weighing one pound or less per foot. *See Lawn and Garden Steel Fence Posts from China*, 67 FR 42581 (June 24, 2002). Therefore, the correct scope should exclude *all* ''tee'' posts, farm posts, and sign posts, *regardless of weight*. No other changes have been made to the Preliminary Determination.

The correct scope reads as follows:

Scope of Investigation

For purposes of this investigation, the products covered consist of all ''U'' shaped or ''hat'' shaped lawn and garden fence posts made of steel and/or any other metal, weighing 1 pound or less per foot, and produced in the PRC. The fence posts included within the scope of this investigation weigh up to 1 pound per foot and are made of steel and/or any other metal. Imports of these products are classified under the following categories: fence posts, studded with corrugations, knobs, studs, notches or similar protrusions with or without anchor posts and exclude round or square tubing or pipes.

These posts are normally made in two different classes, light and heavy duty. Light duty lawn and garden fence posts are normally made of 14 gauge steel (0.068 inches - 0.082 inches thick), 1.75 inches wide, in 3, 4, 5, or 6 foot lengths. These posts normally weigh approximately 0.45 pounds per foot and are packaged in mini-bundles of 10 posts and master bundles of 400 posts. Heavy duty lawn and garden steel fence posts are normally made of 13 gauge steel (0.082 inches - 0.095 inches thick), 3 inches wide, in 5, 6, 7, and 8 foot lengths. Heavy duty posts normally weigh approximately 0.90 pounds per foot and are packaged in mini-bundles of 5 and master bundles of 200. Both light duty and heavy duty posts are included within the scope of the investigation.

Imports of these products are classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 7326.90.85.35. Fence posts classified under subheading 7308.90 are also included within the scope of the investigation if the fence posts are made of steel and/or metal.

Specifically excluded from the scope are other posts made of steel and/or other metal including ''tee'' posts, farm posts, and sign posts, regardless of weight.[1] Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (Customs) purposes, the written description of the merchandise under investigation is dispositive.

Dated: February 14, 2003.

Bernard Carreau,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 03–4422 Filed 2–24–03; 8:45 am]

BILLING CODE 3510–DS–S

[1] Tee posts are made by rolling red hot steel into a ''T'' shape. These posts do not have tabs or holes to help secure fencing to them and have primarily farm and industrial uses.

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, 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, by telephone at (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, 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 03–00002.'' A summary of the application follows.

Summary of the Application

Applicant: EXIM Services of North America, Inc., 530 Bellwood Park Road, Asbury, New Jersey 08802.

Contact: Robert J. Loftin, President.

Telephone: (908) 479–6670.

Application No.: 03–00002.

Date Deemed Submitted: February 7, 2003.

Members (in addition to applicant): None.

EXIM Services of North America, Inc. seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

Export Trade

1. Products

All products.

2. Services

All services.

3. Technology Rights

Technology Rights, including, but not limited to, patents, trademarks, copyrights and trade secrets that relate to Products and Services.

4. Export Trade Facilitation Services (as They Relate to the Export of Products, Services and Technology Rights)

Export Trade Facilitation Services, including, but not limited to, professional services and assistance relating to: government relations; state and federal export programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping and export management;

export licensing; advertising; documentation and services related to compliance with customs requirements; insurance and financing; trade show exhibitions; organizational development; management and labor strategies; transfer of technology; transportation services; and the formation of shippers' associations.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, 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

With respect to the sale of Products and Services, licensing of Technology Rights and provisions of Export Trade Facilitation Services, EXIM Services of North America, Inc. may:

1. Provide and/or arrange for the provision of Export Trade Facilitation Services;

2. Engage in promotional and marketing activities and collect information on trade opportunities in the Export Market and distribute such information to clients;

3. Enter into exclusive and/or non-exclusive licensing and/or sales agreements with Suppliers for the export of Products, Services, and/or Technology Rights in Export Markets;

4. Enter into exclusive and/or non-exclusive agreements with distributors and/or sales representatives in Export Markets;

5. Allocate export sales or divide Export Markets among Suppliers for the sale and/or licensing of Products, Services, and/or Technology Rights;

6. Allocate export orders among Suppliers;

7. Establish the price of Products, Services, and/or Technology Rights for sale and/or licensing in Export Markets;

8. Negotiate, enter into, and/or manage licensing agreements for the export of Technology Rights;

9. Enter into contracts for shipping; and

10. Exchange information on a one-on-one basis with individual Suppliers regarding inventories and near-term production schedules for the purpose of determining the availability of products for export and coordinating export with distributors.

Definitions

1. ''Supplier'' means a person who produces, provides, or sells a Product and/or Service.

Dated: February 19, 2003.

Jeffrey C. Anspacher,

Director, Office of Export Trading, Company Affairs.

[FR Doc. 03–4334 Filed 2–24–03; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended Export Trade Certificate of Review, Application No. 97–6A003.

SUMMARY: The U.S. Department of Commerce has issued an amended Export Trade Certificate of Review to the Association for the Administration of Rice Quotas, Inc. (''AARQ'') on February 19, 2003. Notice of issuance of the original Certificate was published in the **Federal Register** on January 28, 1998 (63 FR 4220).

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, by telephone at (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. sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2003).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of the certification in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 97–00003 was issued to AARQ on January 21, 1998 (63 FR 4220, January 28, 1998) and previously amended on June 4, 1998 (63 FR 31738, June 10, 1998); September 25, 1998 (63 FR 53013, October 2, 1998); June 1, 2000 (65 FR 36410, June 8, 2000); April 5, 2001 (66 FR 21368, April 30, 2001); and February 5, 2002 (67 FR 7357, February 19, 2002).

AARQ's Export Trade Certificate of Review has been amended to:

1. Add each of the following companies as a new ''Member'' of the Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(l) (2003)): JIT Products, Inc., Davis, California; Nidera, Inc., Stamford, Connecticut (a subsidiary of Nidera Handelscompagnie BV (Netherlands)); and Sunshine Rice, Inc., Stockton, California (a subsidiary of Sunshine Business Enterprises, Inc.).

2. Delete the following companies as Members of the Certificate: Glencore Ltd., Stamford, Connecticut (a subsidiary of Glencore International AG), for the activities of Glencore Grain Division; and Liberty Rice Mill, Inc., Kaplan, Louisiana.

3. Change the listing of the following Members: ''CAL PAC Investments, LLC dba California Pacific Rice Milling, Woodland, California'' to read ''Gold River Mills, LLC dba California Pacific Rice Milling, Woodland, California;'' ''Incomar Texas Ltd., and its subsidiary, Gulf Rice Arkansas, LLC, Houston, Texas'' to read ''Gulf Rice Arkansas, LLC (subsidiary of Ansera Marketing, Inc.), Houston, Texas;'' ''PS International, Ltd., Durham, North Carolina'' to read ''PS International, Ltd., Chapel Hill, North Carolina;'' ''Texana Rice, Inc., Houston, Texas'' to read ''Texana Rice Inc., Louise, Texas;'' ''The Connell Company, Berkeley Heights, New Jersey'' to read ''The Connell Company for the activities of itself and its two divisions, Connell Rice & Sugar Co. and Connell International Company, Berkeley Heights, New Jersey;'' and ''Uncle Ben's, Inc., Houston, Texas'' to read ''Uncle Ben's Inc., Greenville, Mississippi.''

The effective date of the amended certificate is November 19, 2002. A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: February 19, 2003.

Jeffrey C. Anspacher,

Director, Office of Export Trading Company Affairs.

[FR Doc. 03–4423 Filed 2–24–03; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021903D]

Pacific Fishery Management Council; March 9–14, 2003, Council Meeting

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

ACTION: Notice of public meetings and hearing.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings and a hearing on management issues regarding its fisheries.

DATES: The Council and its advisory entities will meet March 9 to 14, 2003, see **SUPPLEMENTARY INFORMATION** under Schedule of Ancillary Meetings. The Council will meet on March 11 to 14, from 8 a.m. till the scheduled business is completed. All meetings are open to the public, except that a closed session will be held from 8 a.m. until 10:30 a.m. on March 11.

ADDRESSES: The meetings and the hearing will be held at the Red Lion Hotel Sacramento, 1401 Arden Way, Sacramento, California 95815; telephone: (916) 922–8041.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, Oregon 97220.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: (503) 820–2280 or (866) 806–7204.

SUPPLEMENTARY INFORMATION: The following items are on the Council agenda, but not necessarily in this order:

A.Call to Order
1.Opening Remarks, Introductions,
2.Roll Call
3. Executive Director's Report
4.Approve Agenda
5.Approve June, September and November 2002 Meeting Minutes
B.Salmon Management
1.National Marine Fisheries Service Report
2.Final Scientific and Statistical Committee Methodology Review Recommendations on the Chinook and Coho Fishery Regulation and Assessment Models (FRAM) for 2003 Salmon Management
3.Review of 2002 Fisheries and Summary of 2003 Stock Abundance Estimates
4.Inseason Management Recommendations for Openings Prior to May 1 North of Cape Falcon
5.Identification of Management Objectives and Preliminary Definition of 2003 Salmon Management Options
6.Status of Model Evaluation Workgroup
7.Status of Marking Programs for Selective Fisheries
8.Conservation Objectives for Central Valley Winter and Spring Chinook
9.Council Recommendations for 2003 Management Option Analysis
10.Council Direction for 2003 Management Options (if Necessary)
11.Salmon Hearings Officers
12.Adoption of 2003 Management Options for Public Review
C.Habitat Issues: Essential Fish Habitat Issues
D.Marine Reserves
1.Considerations for Integrating Marine Reserves with Effective Fishery Management
2.Update on Marine Reserves Activities
3.Planning for Federal Waters Portion of the Channel Islands National Marine Sanctuary
E.Groundfish Management: National Marine Fisheries Service Report
F.Pacific Halibut Management
1.National Marine Fisheries Service Report
2.Report on International Pacific Halibut Commission Annual Meeting
3.Public Review Options for the 2003 Incidental Catch Regulations in the Salmon Troll and Fixed Gear Sablefish Fisheries
G.Highly Migratory Species Management
1.National Marine Fisheries Service Report
2.Status of the Pacific Council Highly Migratory Species Fishery Management Plan
H.Administrative and Other Matters
1.Improvements in Meeting National Environmental Policy Act Requirements for Council Action
2.Planning Session on Improving Council Meeting Efficiency
3.Legislative Matters
4.Appointments to Advisory Bodies, Standing Committees, and Other Forums
5.Financial Matters
6.Council Staff Work Load Priorities and Results of Strategic Goals Workshop
7.April 2003 Council Meeting Agenda
I.Coastal Pelagic Species Management
1.National Marine Fisheries Service Report
2.Draft Regulatory Amendment and Analysis for Changes to Sardine Allocation
3.Update on Sardine Stock Assessment Review Process

SCHEDULE OF ANCILLARY MEETINGS

SUNDAY, MARCH 9, 2003

Scientific and Statistical Committee Groundfish and Economic Subcommittees

1 p.m.
Sierra B Room

Klamath Fishery Management Council

2 p.m.
Sierra A Room

MONDAY, MARCH 10, 2003

Council Secretariat

8 a.m.
California Room

Scientific and Statistical Committee

8 a.m.
Sierra B Room

Salmon Advisory Subpanel

8 a.m.
Comstock 2 Room

Salmon Technical Team

8 a.m.
Comstock 3 Room

Habitat Committee

10 a.m.
Klamath Room

Legislative Committee

10 a.m.
Tahoe Room 514

Budget Committee

1 p.m.
Tahoe Room 514

Washington State Delegation

As necessary
Comstock 1 Room

Klamath Fishery Management Council

As necessary
Sierra A Room

Tribal Policy Group

As necessary
Almanor Room 303

Tribal Washington Technical Groups

As necessary
Shasta Room 305

TUESDAY, MARCH 11, 2003

Council Secretariat

7 a.m.
California Room

California State Delegation

7 a.m.
Tahoe Room 514

Oregon State Delegation

7 a.m.

Comstock 2 Room

Scientific and Statistical Committee

8 a.m.
Sierra B Room

Salmon Advisory Subpanel

8 a.m.
Comstock 2 Room

Salmon Technical Team

8 a.m.
Comstock 3 Room

Enforcement Consultants

Immediately after Council session
Tahoe Room 514

Washington State Delegation

As necessary Needed
Comstock 1 Room

Tribal Policy Group

As necessary
Almanor Room 303

Tribal Washington Technical Groups

As necessary
Shasta Room 305

Klamath Fishery Management Council

As necessary
Sierra A Room

WEDNESDAY, MARCH 12, 2003

Council Secretariat

7 a.m.
California Room

California State Delegation

7 a.m.
Tahoe Room 514

Oregon State Delegation

7 a.m.
Comstock 2 Room

Coastal Pelagic Species Advisory Subpanel

8 a.m.
Klamath Room 513

Salmon Advisory Subpanel

8 a.m.
Comstock 2 Room

Salmon Technical Team

8 a.m.
Comstock 3 Room

Enforcement Consultants

As necessary
Tahoe Room 514

Washington State Delegation

As necessary
Comstock 1 Room

Tribal Policy Group

As necessary
Almanor Room 303

Tribal Washington Technical Groups

As necessary
Shasta Room 305

Klamath Fishery Management Council

As necessary
Sierra A Room

THURSDAY, MARCH 13, 2003

Council Secretariat

7 a.m.
California Room

California State Delegation

7 a.m.
Tahoe Room 514

Oregon State Delegation

7 a.m.
Comstock 2 Room

Coastal Pelagic Species Advisory Subpanel

8 a.m.
Klamath Room 513

Salmon Advisory Subpanel

8 a.m.
Comstock 2 Room

Salmon Technical Team

8 a.m.
Comstock 3 Room

Enforcement Consultants

As necessary
Tahoe Room 514

Washington State Delegation

As necessary Needed
Comstock 1 Room

Tribal Policy Group

As necessary
Almanor Room 303

Tribal Washington Technical Groups

As necessary
Shasta Room 305

Klamath Fishery Management Council

As necessary
Sierra A Room

FRIDAY, MARCH 14, 2003

Council Secretariat

7 a.m.
California Room

California State Delegation

7 a.m.
Tahoe Room 514

Oregon State Delegation

7 a.m.
Comstock 2 Room

Salmon Advisory Subpanel

8 a.m.
Comstock 2 Room

Salmon Technical Team

8 a.m.
Comstock 3 Room

Enforcement Consultants

As necessary
Comstock 1 Room

Washington State Delegation

As necessary
Comstock 1 Room

Tribal Policy Group

As necessary
Almanor Room 303

Tribal Washington Technical Groups

As necessary
Shasta Room 305

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least five days prior to the meeting date.

Dated: February 19, 2003.

Theophilus R. Brainerd,

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

[FR Doc. 03–4329 Filed 2–19–03; 4:34 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021003A]

Atlantic Coastal Fisheries Cooperative Management Act Provisions; Application for an Exempted Fishing Permit (EFP)

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

ACTION: Notice of intent to issue an EFP to use modified traps to capture Royal

Red Shrimp (*Pleoticus robustus*); request for comments.

SUMMARY: The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject EFP application contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of Federal management of the American lobster resource. However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Regional Administrator intends to issue an EFP that would allow one federally permitted lobster vessel to fish a maximum of six modified lobster traps to obtain live specimens of royal red shrimp for the purposes of study and cultivation. The request for the EFP was submitted by the Department of Molecular and Cell Biology, University of Connecticut in conjunction with a grant received by the U.S. Department of Agriculture to carry out aquaculture trials and maturation experiments on royal red shrimp and determine the suitability of this species for aquaculture. Approximately 300 to 600 live adult royal red shrimp are needed to carry out the aquaculture trials. Collection of the specimens will be conducted aboard the identified vessel during the course of routine commercial trap fishing operations for American lobster and red crab in lobster conservation management area 3, in the vicinity of Munson Canyon east to the Hague line. The EFP would authorize the experimental fishing to occur for a 1–year period beginning on the date of issuance of the EFP.

DATES: Comments on this action and application for an EFP for use of modified lobster traps for capture of royal red shrimp must be received on or before March 12, 2003.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NOAA Fisheries, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Royal Red Shrimp EFP Proposal''. Comments may also be sent via facsimile (fax) to (978) 281–9117. Comments will not be accepted if submitted via email or the internet.

FOR FURTHER INFORMATION CONTACT: Peter Burns, Fishery Management Specialist, (978) 281–9144.

SUPPLEMENTARY INFORMATION:

Background

The regulations that govern exempted fishing, at 50 CFR 600.745(b) and 697.22, allow the Regional Administrator to authorize for limited testing, public display, data collection, exploration, health and safety, environmental clean-up and/or hazardous removal purposes, and the targeting or incidental harvest of managed species that would otherwise be prohibited. An EFP to authorize such activity may be issued, provided that adequate opportunity is given for the public to comment on the EFP application; the conservation goals and objectives of Federal management of the American lobster resource are not compromised; and the issuance of the EFP is beneficial to the management of the species.

Royal red shrimp can be found in the deep water habitats along the continental shelf and have been commercially harvested in a relatively limited capacity. Royal red shrimp are not a federally managed species. Therefore, no regulatory exemptions pertaining to their capture or retention are necessary.

The American lobster fishery is the most valuable fishery in the northeastern United States. In 2001, approximately 74 million pounds (33,439 metric tons) of American lobster were landed with an ex-vessel value of approximately 255 million dollars. The American lobster resource is managed by the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for American Lobster. Regulations pertaining to the management of the resource in the Federal waters of the Exclusive Economic Zone (EEZ) are codified at 50 CFR part 697.

Regulations Pertinent to this EFP

The EFP for this activity relates to the experimental trap gear (no more than six experimental traps) and would waive the vessel from the trap limits as codified in 50 CFR 697.19(b)(2) and trap tagging requirements in 50 CFR 697.19(c) of the Federal lobster regulations. In addition, exemptions to the trap identification and trap tagging requirements in 50 CFR 697.21(a)(2), the escape vent requirement in 50 CFR 697.21(c), the ghost panel requirement in 50 CFR 697.21(d), and the maximum trap size restriction in 50 CFR 697.21(e)(2)(i) and (ii) are also necessary to allow the applicant to carry out the proposed experimental fishing. These exemptions are required because the vessel may exceed the current trap limit by fishing up to an additional six traps; the size of the experimental traps is slightly larger than currently allowed under the Federal regulations (33,800 cu. (553,883 cu. cm.) vs. 30,100 cu. in.(493,251 cu. cm.)); the experimental trap design does not provide for either an escape vent or a ghost panel; and no practical mechanism exists by which additional trap tags may be obtained by the vessel owner to affix to the experimental traps. The waiver of these requirements would apply to the experimental trap gear only. The vessel's commercial trap gear would still be held to all the requirements of the Federal regulations.

Proposed EFP

The EFP request was submitted by the University of Connecticut. Researchers from this institution will collaborate with the owner/operator of an identified vessel to obtain 300 to 600 live adult royal red shrimp. The vessel, when conducting routine commercial trap fishing for American lobster and red crab, would deploy up to six modified traps in addition to the vessel's maximum trap allocation of 1,800 lobster traps. The modified traps will be added to the multi-trap trawls fished by the vessel and will not result in additional vertical lines in the water column. The operator of the vessel will be responsible for transporting, deploying, and hauling back the modified gear over the requested period until such time that a suitable number (300–600 individual live adult royal red shrimp) are successfully acquired or until the EFP expires (not to extend beyond one year in duration). Any bycatch will be discarded, and any live adult royal red shrimp will be retained, kept alive, and transported to researchers at the University of Connecticut.

The proposed experimental traps will be of a modified lobster or red crab design, with approximate dimensions as follows: 50'' X 26'' X 26'' (approximately 33,800 cu. in.; 553,883 cu. cm.). Mesh size throughout the body of the trap will be 1/4 in. (0.635 cm.) and each trap will be wrapped entirely in burlap cloth in such a manner to allow entry of the shrimp but prevent escapement. Fishing depth of the traps is expected to be between 190 and 300 fathoms, and the experimental fishing is proposed for lobster conservation management area 3 in the vicinity of Munson Canyon east to the Hague Line. The University of Connecticut's proposal estimates approximately 100–150 lb (45.5 - 68.2 kg.) of bycatch in the experimental traps during the course of the project, including small monkfish, other finfish and shrimp species, small

crabs, and lobsters. These bycatch estimates were provided by the applicant and are based on the results of otter trawl experiments conducted by NOAA funded research projects that targeted royal red shrimp at similar depths and provided detailed data on observed bycatch.

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

Dated: February 14, 2003.

Richard W. Surdi,

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

[FR Doc. 03–4331 Filed 2–24–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

AGENCY: United States Patent and Trademark Office (USPTO).

Title: Fastener Quality Act Insignia Recordal Process.

Form Number(s): PTO–1611.

Agency Approval Number: 0651–0028.

Type of Request: Extension of a currently approved collection.

Burden: 26 hours annually.

Number of Respondents: 150 responses per year.

Avg. Hours Per Response: The USPTO estimates that it will take the public approximately 10 minutes (0.17 hours) to gather the necessary information, prepare the form, and submit the request for recordal or renewal of a fastener insignia.

Needs and Uses: Under Section 5 of the Fastener Quality Act of 1999, 15 U.S.C. 5401 *et seq.*, as implemented in 15 CFR 280.300 *et seq.*, certain industrial fasteners must bear an insignia identifying the manufacturer. Manufacturers use this collection to record and renew fastener insignias with the USPTO so that these fasteners can be traced to their manufacturers. After the manufacturer submits a complete application for recordal of a fastener insignia, the USPTO will issue a Certificate of Recordal, which remains active for five years. The USPTO uses this information to maintain the Fastener Insignia Register, which is open to public inspection.

Affected Public: Businesses or other for-profits.

Frequency: On occasion and renewal every 5 years.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Susan K. Brown, Records Officer, Office of Data Architecture and Services, Data Administration Division, USPTO, Suite 310, 2231 Crystal Drive, Washington, DC 20231, by phone at (703) 308–7400, or by e-mail at *susan.brown@uspto.gov*.

Written comments and recommendations for the proposed information collection should be sent on or before March 27, 2003 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street NW, Washington, DC 20503.

Dated: February 14, 2003.

Susan K. Brown,

Records Officer, USPTO, Office of Data Architecture and Services, Data Administration Division.

[FR Doc. 03–4338 Filed 2–24–03; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denial of Participation in the Special Access Program

February 20, 2003.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs suspending participation in the Special Access Program.

EFFECTIVE DATE: March 1, 2003.

FOR FURTHER INFORMATION CONTACT: Richard Stetson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Committee for the Implementation of Textile Agreements (CITA) has determined that House of Perfection, d.b.a. Stepping Stones (House of Perfection) has violated the requirements for participation in the Special Access Program and has suspended House of Perfection from participation in the Program for the period from March 1, 2003 until December 31, 2004.

Through the letter to the Commissioner of Customs published below, CITA directs the Commissioner to prohibit entry of products under the Special Access Program by, or on behalf of, House of Perfection during the period from March 1, 2003 until December 31, 2004.

Requirements for participation in the Special Access Program are available in Federal Register notice 63 FR 16474, published on April 3, 1998.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 20, 2003.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: The purpose of this directive is to notify you that the Committee for the Implementation of Textile Agreements has suspended House of Perfection, d.b.a. Stepping Stones (House of Perfection) from participation in the Special Access Program for the period from March 1, 2003 until December 31, 2004. You are therefore directed to prohibit entry of products under the Special Access Program by or on behalf of House of Perfection during the period March 1, 2003 until December 31, 2004.

Sincerely,

D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.03–4402 Filed 2–24–03; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability of Novel Composite Material Technologies for Exclusive, Partially Exclusive or Non-Exclusive Licenses

AGENCY: Department of the Army, DOD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive or non-exclusive licenses relative to novel composite material based technologies as described in U.S. Patent application ''Method for Producing Nano-Textured Solid Surfaces'' (U.S. Patent Application No. 10/318667). Any license shall comply with 35 U.S.C. 209 and 37 CFR part 404.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and

Technology Applications, ATTN: AMSRL–DP–T/Bldg. 459, Aberdeen Proving Ground, MD 21005–5425, telephone: (410) 278–5038.

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–4404 Filed 2–24–03; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Palm Beach Harbor Lake Worth Access Channel Expansion, Section 107 Small Navigation Project

AGENCY: Department of the Army, Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps), Jacksonville District intends to prepare a Draft Environmental Impact Statement (DEIS) for the Palm Beach Harbor Lake Worth Access Channel Expansion, Section 107 Small Navigation Project. The study is a cooperative effort between the Corps and the Florida Inland Navigation District (FIND), with the support of Palm Beach County (PBC) and the Port of Palm Beach Harbor (PBH).

FOR FURTHER INFORMATION CONTACT: James McAdams, 904–232–2117, Environmental Branch, Planning Division, P.O. Box 4970, Jacksonville, FL 32232–0019.

SUPPLEMENTARY INFORMATION: The DEIS for the PBH Lake Worth Access Channel Expansion, Section 107 Small Navigation Project was authorized by the Flood Control Act of 1968.

The purpose of the study is to consider modifying the Federal navigation project of PBH to provide navigation access for larger and deeper-draft vessels to interior berthing, testing, and repair facilities located adjacent to PBH in Lake Worth. Existing depths in the proposed Lake Worth main access channel area are presently limited to the 10-foot deep Federal IWW channel that runs north and south from the Port. The need for this deepening project comes from the recent growth in larger/deeper-draft vessels requiring deeper water depths to safely navigate the interior area.

The study involves an analysis of available information from sources within the project area and records at the Jacksonville District. The without project deepening condition is for continuing maintenance of the existing 10-foot depth (Intracoastal Waterway) IWW channel, with maintenance to maintain the channels for both projects. A deepened access channel was analyzed from the existing ten-foot depth, in one-foot increments to a 16-foot depth. Each alternative depth considered includes a one-foot required and one-foot allowable over-depth. All alternative depth main access channels have a bottom width of 125 feet for about 0.7 miles [2] north and 4.5 miles south of the PBH project limit. Adding an appropriate depth access channel would enable larger vessels access to commercial repair and berthing facilities in the vicinity of PBH and improve operational efficiencies at other commercial and educational training facilities along Lake Worth.

The existing 1.6-mile Federal PBH navigation channel provides a 35 foot deep project through the ocean inlet, 33 feet through the inner channel and within the main turning basin, and 25 feet in a second turning basin, to berthing slips and wharves at PPBH, in West Palm Beach, Florida. PBH serves a variety of dry bulk, liquid bulk, and general cargo vessels calling at the Harbor in addition to smaller commercial and recreational boating interests. The present Section 107 study addresses and is focused on an extension of the harbor footprint to the north and south via the addition of main and interior access channels and berthing areas. The Jacksonville to Miami IWW, part of which is co-located with the Harbor and continues north and south from the Port, traverses the study area. This report's primary study area is a 5.2 mile reach of Lake Worth in Palm Beach County in the vicinity of PBH.

Several Federal navigation, beach erosion control, environmental restoration, and food control projects exist in the study area. The first navigation project is the PBH project. The second navigation project is the IWW from Jacksonville to Miami. Two beach erosion control projects exist along the Atlantic Ocean shoreline adjacent to PBH. Also, a section 1135 study was initiated during 1996 to examine environmental restoration of a portion of Peanut Island, the upland dredged material disposal site used in the PBH and IWW projects. The final project is the West Palm Beach Canal (C–51) that currently serves as a flood control structure, although initially constructed for navigation purposes.

Alternatives: Two basic sets of alternatives were considered for providing an access channel for navigation in the Lake Worth study area. One is to do no further improvements to the project (no action plan). The second set of alternatives involve structural changes to (extension of) the existing PBH project. The alternative evaluations involved an assessment of the optimum channel depth to provide the greatest return on the investment (net benefits), the dredging equipment for performing the construction and maintenance work, and dredged material disposal options. The identification of these alternatives and options are discussed in the subsequent sections.

Issues: The Environmental Impact Statement (EIS) will consider impacts on seagrasses, protected species, health and safety, water quality, aesthetics and recreation, fish and wildlife resources, cultural resources, energy conservation, socio-economic resources, and other impacts identified through scoping, public involvement, and interagency coordination.

Scoping: A scoping letter was sent to interested parties on September 13, 2000 for the original Environmental Assessment of the project. Due to comments received, an EIS was judged needed and a new scoping letter will be sent out the first week of February 2003. In addition, all parties are invited to participate in the scoping process by identifying any additional concerns on issues, studies needed, alternatives, procedures, and other matters related to the scoping process. At this time, there are no plans for a public scoping meeting.

Public Involvement: We invite the participation of affected Federal, state and local agencies, affected Indian tribes, and other interested private organizations and parties.

Coordination: The proposed action is being coordinated with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service under Section 7 of the Endangered Species Act, with the FWS under the Fish and Wildlife Coordination Act, and with the State Historic Preservation Officer.

Other Environmental Review and Consultation: The proposed action would involve evaluation for compliance with guidelines pursuant to Section 404(b) of the Clean Water Act; application (to the State of Florida) for Water Quality Certification pursuant to Section 401 of the Clean Water Act; certification of state lands, easements, and rights of way; Essential Fish Habitat with National Marine Fisheries Service; and determination of Coastal Zone Management Act consistency.

Agency Role: As cooperating agency, non-Federal sponsor, and leading local expert; Palm Beach County Department

of Environmental Resources will provide extensive information and assistance on the resources to be impacted, mitigation measures, and alternatives.

DEIS Preparation: It is estimated that the DEIS will be available to the public on or about August 15, 2003.

Dated: February 4, 2003.

George M. Strain,

Acting Chief, Planning Division.

[FR Doc. 03–4406 Filed 2–24–03; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Estuary Habitat Restoration Council; Meeting Cancellation

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice; cancellation.

SUMMARY: The public meeting of the Estuary Habitat Restoration Council scheduled for Wednesday, February 26, 2003 from 10 a.m. to 12 p.m. published in the **Federal Register** on Monday, February 10, 2003 (68 FR 6725) has been cancelled.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Cummings, Headquarters, U.S. Army Corps of Engineers, Washington, DC 20314–1000, (202) 761–4558; or Ms. Cynthia Garman-Squier, Office of the Assistant Secretary of the Army (Civil Works), Washington, DC, (703) 695–6791.

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–4405 Filed 2–24–03; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement for Navy Air-To-Ground Training at Avon Park Air Force Range and To Announce Public Scoping Meetings

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: Pursuant to section (102)(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), the Department of Navy (Navy) announces its intent to prepare an Environmental Impact Statement (EIS) to evaluate the potential environmental consequences of utilizing Avon Park Air Force Range (APAFR) as a location for high explosive air-to-ground ordnance training for East Coast Carrier-based strike/fighter aviation squadrons. Squadrons would use APAFR in combination with other available air-to-ground range assets to meet the operational requirements of its structured aircrew-training program called the Inter-Deployment Training Cycle (IDTC). IDTC air-to-ground training will encompass operations associated with Navy intermediate and advanced level training exercises and combat certification. The EIS will focus on air-to-ground training alternatives within APAFR. These alternatives will encompass varying mixtures of ordnance types among three different ranges within APAFR.

DATES AND ADDRESSES: Three public scoping meetings will be held in Avon Park, Florida; Sebring, Florida; and in Frostproof, Florida to receive oral and written comments on environmental concerns that should be addressed in the EIS. Public scoping open houses will be held at the following dates, times, and locations:

—Tuesday, March 18, 2003, from 7 p.m. to 9 p.m., Frostproof High School Cafeteria, Frostproof, FL.

—Wednesday, March 19, 2003, from 7 p.m. to 9 p.m., Sebring Civic Center, Sebring, FL.

—March 20, 2003, from 7 p.m. to 9 p.m., The City of Avon Park Community Center, Avon Park, FL.

FOR FURTHER INFORMATION CONTACT: Mr. Will Sloger, Southern Div., Naval Facilities Engineering Command, PO Box 190010, North Charleston, SC 29419–9010; telephone (843) 820–5797; facsimile (843) 820–7472.

SUPPLEMENTARY INFORMATION: The Commander, U.S. Atlantic Fleet prepares Carrier Battlegroups (CVBGs) for deployment using a training process known as the ''Inter-deployment Training Cycle (IDTC).'' The IDTC prepares Navy personnel to function as a part of a coordinated fleet or joint fighting force with the capacity to accomplish multiple missions in a hostile environment. The IDTC is highly structured and features a three-phased building-block approach including basic, intermediate, and advanced phases. Mission activities conducted during the IDTC include integrated strike, close air support, combat search-and-rescue, unit level bombing, helicopter unit level terrain flight, and helicopter unit level air-to-ground training.

The Navy must deploy combat ready forces and considers training with live ordnance to be indispensable to achieving and maintaining combat readiness. The handling of live ordnance and the decision-making in the use of this ordnance provides Fleet sailors and airmen the greatest degree of combat training realism. Exposure to live ordnance is known to rivet the attention of those who manage, handle, and employ it with a combination of fear and respect that non-explosive ordnance cannot impart. Moreover, employment of explosive ordnance onboard an aircraft carrier involves the hazardous end-to-end weapons regime; to include breakout, build-up, and loading; to weapons release, impact, aircraft return and recovery, both day and night. On the ground, redundancy in the availability of disparate explosive targets helps reduce the likelihood of fratricide and collateral damage by ensuring a rigorous, combat-like training regimen prior to overseas deployment. In the end, tactical pilots and flight officers must have full confidence in their support personnel, their equipment and weapons systems, and in their ability to safely and effectively prosecute difficult target sets.

Explosive ordnance-capable ranges are limited to the Navy's Pinecastle Range and the Air Force's Eglin Air Force Base (Air Armament Center) on the East Coast of the United States. At these ranges, limitations exist with regard to range dimensions, run-in lines, the number of explosive ordnance target sets, fire index restrictions, and scheduling lead times, changes, and priorities. Consequently, explosive ordnance range capabilities must be expanded to a location proximate to planned Carrier Battlegroup Training in the Southeastern U.S. (Jacksonville and Gulf of Mexico Operational Areas) to reduce the potential for a single point of failure should the existing ranges be unavailable or unsuitable for a particular exercise. This location must have sufficient range area and suitably sized special use airspace to accommodate safe aircraft operations and ordnance delivery across the full spectrum of IDTC training.

The purpose of the proposed action, therefore, is to provide flexibility across the full spectrum of the IDTC for U.S. Atlantic Fleet aircrews. Navy use of APAFR as a location for explosive air-to-ground training would provide redundancy for explosive ordnance capabilities; increase combat realism, scheduling flexibility, and aimpoint variety; reduce undue operational impacts at any one location; and promote the benefits of multiple DOD,

Navy, and community partnerships. Navy will consider possible alternatives using a combination of ordinance target locations within the APAFR.

The EIS will evaluate the environmental effects associated with: Airspace; noise; range safety; earth resources; water resources; air quality; biological resources, including threatened and endangered species; land use; socioeconomic resources; infrastructure; and cultural resources. The analysis will include an evaluation of the direct, indirect, and cumulative impacts. No decision will be made to implement any alternative until the NEPA process is completed.

The Navy is initiating the scoping process to identify community concerns and local issues that will be addressed in the EIS. Federal, state, and local agencies, and interested persons are encouraged to provide oral and/or written comments to the Navy to identify specific issues or topics of environmental concern that should be addressed in the EIS. Written comments must be postmarked by April 15, 2003, and should be mailed to: Avon Park Air-to-Ground Training EIS, c/o Commanding Officer, Southern Div., Naval Facilities Engineering Command, PO Box 190010, North Charleston, SC 29419–9010, Attn: Code ES12/WS (Will Sloger), telephone (843) 820–5797, facsimile (843) 820–7472.

Dated: February 20, 2003.

J.T. Baltimore,

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

[FR Doc. 03–4411 Filed 2–24–03; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 27, 2003.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren.Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: February 19, 2003.

John D. Tressler, Leader,

Regulatory Management Group, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision of a currently approved collection.

Title: Program for International Student Assessment (PISA) (KI).

Frequency: Other: one time.

Affected Public: Individuals or household (primary), State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 10800; Burden Hours: 28125.

Abstract: The Program for International Student Assessment (PISA) is a new system of international assessments that focus on 15-year-olds' capabilities in reading literacy, mathematics literacy, and science literacy. PISA 2000 was the first cycle of PISA, which will be conducted every three years, with a primary focus on one area for each cycle. PISA 2000 focused on reading literacy; mathematics literacy will be the focus in 2003, and science literacy in 2006. In addition to assessment data, PISA provides background information on school context and student demographics to benchmark performance and inform policy.

Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or directed to her e-mail address *Vivian.Reese@ed.gov.* Requests may also be faxed to 202–708–9346. *Please specify the complete title of the information collection when making your request.*

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–4316 Filed 2–24–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Notice of implementation of electronic delivery of school cohort default rate data for institutions located in the United States.

SUMMARY: The Secretary gives notice of the implementation of electronic delivery of cohort default rate notification packages to institutions located in the United States (domestic institutions) that participate in the Federal student aid programs authorized under Title IV of the Higher Education Act of 1965, as amended. This notice concerns electronic processes related to cohort default rates calculated for institutions participating in the Federal Family Education Loan (FFEL) Program, the William D. Ford Federal Direct Loan (Direct Loan) Program, or both. It does not apply to cohort default rates calculated for the Federal Perkins Loan Program.

Domestic schools must participate in this new electronic process by June 1, 2003. After that date, and except in the case of a technical problem caused by the U.S. Department of Education (Department) as described below, the electronic process will be the sole means by which the Secretary provides notice to domestic schools of their draft and official cohort default rates and underlying data. While participation in the electronic process by domestic schools is mandatory as of June 1, 2003,

we will begin electronic distribution of cohort default rate notifications with the fiscal year (FY) 2001 draft rates in February 2003, for schools that by then have registered for the new service, as described below.

FOR FURTHER INFORMATION CONTACT: Kriste Jordan, Default Management, Schools Channel, Federal Student Aid, U.S. Department of Education, Union Center Plaza, 084B4, 830 First Street, Washington, DC 20002. Telephone: (202) 377–3191, FAX (202) 275–4511.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION: Beginning with the release of fiscal year (FY) 2001 draft cohort default rates in February 2003, we will electronically transmit draft and official cohort default rate notification packages to domestic institutions using our Student Aid Internet Gateway (SAIG). The electronic delivery of cohort default rate information to domestic institutions will replace the current process, which involves delivery of hardcopy documents. Foreign schools (*i.e.,* schools eligible to participate in the Federal Family Education Loan Program under section 102(a)(1)(C) of the Higher Education Act of 1965, as amended) are not subject to participation in this electronic process. Foreign schools will continue to receive their cohort default rate notification documents in hardcopy rather than electronically. Foreign schools' rights to appeal, make challenges and seek adjustments will continue to run from the date of receipt of the hardcopy, as they have in the past.

For each electronic distribution of default rate notifications (draft and official) to domestic institutions, we will announce on our Information for Financial Aid Professionals (IFAP) Web site (*http://www.ifap.ed.gov*) the date of the electronic transmission of cohort default rate information to the destination points designated by each domestic institution. Except as described in the following paragraph, the time periods for making appeals and challenges and seeking adjustments under 34 CFR part 668, subpart M will begin with the sixth business day after the date the default rate notification packages were transmitted to the SAIG destination points, as noted in the IFAP announcement.

If an institution believes that a technical problem that was caused by the U.S. Department of Education (Department) resulted in the institution not being able to access its electronic cohort default rate information, it must notify us no later than five business days after the transmission date announced on IFAP. By doing so and if we agree that the problem was caused by the Department, we will extend the challenge, appeal, and adjustment deadlines and timeframes to account for a re-transmission of the information after the technical problem is resolved. Reports of technical problems must be made via e-mail and addressed to our Default Management sharepost at: *fsa.schools.default.management@ed.gov.*

Each institution is responsible for updating its SAIG enrollment whenever a change is needed to its cohort default rate notification package destination point. Failure of an institution to enroll in or update SAIG for the eCDR process does not constitute a valid, timely technical problem that would extend timeframes or deadlines for appeals, challenges, and adjustments.

To implement the electronic process, every domestic school must, no later than June 1, 2003, designate an SAIG destination point that will receive the institution's electronic cohort default rate (eCDR) notification packages. The designation of the eCDR destination point must be conducted through the SAIG enrollment process at: *http://www.sfawebenroll.ed.gov.*

In addition, before eCDR functionality can be provided to the designated SAIG destination point each institution must submit, by June 1, 2003, a hardcopy SAIG signature page signed by the institution's Chief Executive Officer (CEO) (*e.g.,* President, Chancellor, Owner) or the person previously designated by the CEO as the institution's SAIG signature authority.

Once SAIG enrollment is completed, the institution's designee will receive electronic school cohort default rate notification packages unless the school changes the designee by submitting a revision to its SAIG enrollment.

Electronic Access to This Document

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Program Authority: 20 U.S.C. 1085, 1094, 1099c.

Dated: February 20, 2003.

Sally L. Stroup,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 03–4392 Filed 2–24–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL03–38–000]

Before Commissioners: Pat Wood, III, Chairman; William L. Massey, and Nora Mead Brownell; Cargill Power Markets, LLC, Complainant, v. Midwest Independent Transmission System Operator, Inc., Respondent; Order on Complaint Establishing Hearing and Settlement Procedures

February 14, 2003.

1. In this order, the Commission sets for hearing the complaint (complaint) filed on December 31, 2002 by Cargill Power Markets, LLC (Cargill) against the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), regarding a request by Cargill for long-term firm transmission service. Moreover, to aid the parties in settling their dispute, we will hold the hearing in abeyance pending the outcome of settlement judge procedures.

Background

2. Cargill complains that the Midwest ISO wrongfully recalled Cargill's confirmed reservation with the Midwest ISO for 52 MW of long-term firm point-to-point transmission service (service reservation) from the Pennsylvania-New Jersey-Maryland (PJM) source Control Area to the Michigan-Ontario Independent Electricity Market Operator border (MI–IMO), for the period January 1, 2003 through January 1, 2004. Cargill states that the Midwest ISO confirmed the service reservation on November 21, 2002. Cargill further contends that on

November 27, 2002, the Midwest ISO informed Cargill that the Midwest ISO might annul the service reservation due to its re-evaluation of certain business practices. However, Cargill claims that after Cargill refused to agree to an annulment, the Midwest ISO stated that it would review the situation.

3. Cargill further alleges that on December 23, 2002, the Midwest ISO informed Cargill that the service reservation was inadvertently processed out of order and was being recalled due to the MI–IMO interface being oversubscribed by non-competing requests, based on the condition, Midwest ISO's Business Practices Manual Section 6.8.1, that competing requests must have the same source and sink Control Areas. Cargill states that the Midwest ISO claimed authority to recall the service reservation under Section 4.2.13.10 of the Open Access Same Time Information System (OASIS) Standards and Communication Protocols Document (S&CP Document).

4. Cargill contends that the Midwest ISO's recall of the service reservation violates the Midwest ISO's Open Access Transmission Tariff (OATT) and Business Practices, as well as prior Commission orders and the Commission's OASIS standards. Cargill states that the S&CP Document [1] and Commission precedent [2] require that the acceptable reasons for a recall of transmission capacity be clearly articulated in the Midwest ISO's OATT or in a transmission service agreement. Cargill maintains that neither the Midwest ISO's OATT nor a transmission service agreement allow the recall of confirmed long-term firm transmission capacity due to a re-evaluation of, or disputes regarding, the Midwest ISO's Business Practices.

5. Furthermore, Cargill contends that the Commission has stated that transmission providers are liable for errors, even if made in good faith or in accordance with its published procedures.[3] Cargill argues that if a transmission provider oversubscribes a transmission system, the onus is on it to either curtail transmission service or build transmission facilities. Cargill relies upon *Exelon*,[4] where the Commission stated:

> If the transmission system becomes constrained such that the transmission provider cannot satisfy existing customers, then the obligation is on the transmission provider to either curtail service pursuant to the provisions of its OATT or to build more capacity to relieve the constraint.

6. Moreover, Cargill argues that the recall of its service reservation was prohibited, because the Midwest ISO failed to give Cargill timely notice of the action. Cargill notes that the Commission has allowed the annulment of other service reservations where the transmission customer received timely notice of the annulment.[5] However, Cargill states that the Midwest ISO did not send Cargill notice of the recall until December 23, 2002, over one month after the service reservation was confirmed and a little more than one week before service was to commence. Moreover, Cargill alleges that the Midwest ISO erred in posting the relevant recall on its OASIS, since the relevant notice, posted on November 29, 2002 (OASIS notice), referenced 1 MW of service, while Cargill had reserved 52 MWs. Cargill states that it did not have reasonable notice of the recall, since the notice referenced a different MW of service. Cargill alleges that on December 30, 2002, after Cargill had alerted the Midwest ISO of the inadequate notice, the Midwest ISO amended the posted recall to reference the 52 MWs at issue.

7. Finally, Cargill distinguishes its complaint from another complaint filed against the Midwest ISO by Tenaska Power Services Co.[6] (Tenaska complaint). Cargill states that this proceeding must be resolved separately from the Tenaska complaint. Cargill contends that the Tenaska complaint involves the proper interpretation of the Midwest ISO's Business Practices and hinges on whether Section 6.8.1 of that document applies to long-term firm requests and whether competing requests must have the same points of receipt and delivery. On the other hand, Cargill alleges that it has a confirmed reservation for long-term firm transmission service that, by reference to a provision in the S&CP document, which is not provided for anywhere in the Midwest ISO's OATT, the Midwest ISO has attempted to recall a week before service is to commence. Cargill states that the only relationship between its complaint and the Tenaska complaint is that the Midwest ISO has oversold service to the MI–IMO interface and now seeks to resolve that situation by invoking an undefined and vague recall procedure not specified in its OATT.

Notice of the Filing and Responsive Pleadings

8. Notice of Cargill's filing was published in the **Federal Register**,[7] with the answer, interventions, comments, and protests due on or before January 15, 2003. The Midwest ISO filed a timely answer. Tenaska Power Services Co. (Tenaska) filed a timely motion to intervene and comments, and Dynegy Power Marketing, Inc., Reliant Resources, Inc. and MidAmerican Energy Company filed timely motions to intervene. Duke Energy Trading and Marketing, L.L.C. (Duke Energy) filed an untimely motion to intervene.

9. In its answer, the Midwest ISO states that under the Midwest ISO's longstanding preemption methodology, which has been in effect since the Midwest ISO became operational (February 1, 2002), Cargill's request for service could not preempt any requests for short-term transmission service, because no short-term requests shared the same source and sink Control Areas as Cargill's requested service. The Midwest ISO contends that, at the urging of FERC Hotline Staff, it began employing an expanded preemption methodology that would not require competing requests to have the same source and sink Control Areas. The Midwest ISO states that, using the expanded preemption methodology, it approved Cargill's transmission service request on November 19, 2002. The Midwest ISO maintains that Cargill confirmed that approval on November 21, 2002.

10. On the morning of November 27, 2002, the Midwest ISO alleges that Cargill contacted the Midwest ISO and expressed concern that the expanded preemption methodology (which, the Midwest ISO contends, led to the approval of Cargill's service request) violated the Midwest ISO's preemption methodology, set forth in Section 6.8.1 of the Midwest ISO's Business Practices Manual. The Midwest ISO states that, after internal discussions, it agreed with Cargill that the expanded preemption methodology violated the Business Practices Manual.

[1] Cargill cites Sections 4.2.13.10 of the S&CP Document, which states, in relevant part: ''There are cases in implementing provisions of the Primary Provider's Tariff that the capacity reserved by a Transmission Customer may be reduced in whole or in part. The particular reasons for these reductions are Tariff specific. * * *'' Cargill Complaint at 7.

[2] Cargill cites Duke Energy Corp., 88 FERC ¶ 61,184 (1999); Southern Company Services, Inc., 100 FERC ¶ 61,314 (2002); Public Serv. Co. of New Mexico, 85 FERC 61,240 (1998); *Public Serv. Co. of New Mexico* v. *Arizona Pub. Serv. Co.,* 99 FERC ¶ 61,162 (2002); and *Exelon Generation Co., LLC* v. *Southwest Power Pool, Inc.,* 99 FERC ¶ 61,235, *reh'g denied,* 101 FERC ¶ 61,226 (2002) (*Exelon*).

[3] Cargill cites Open Access Same-Time Information System and Standards of Conduct, Order No. 889–A, 62 FR 2484 (1997), FERC Stats. and Regs. ¶ 31,049 at 30,572.

[4] 101 FERC at 61,980.

[5] Cargill cites *Williams Energy Marketing & Trading Co.* v. *Southern Company Services, Inc.,* 101 FERC ¶ 61,144 (2002) (*reh'g pending*) (*Williams Energy*); *Powerex Corp.* v. *Department of Energy,* 95 FERC ¶ 61,241 (2001) (*Powerex*).

[6] Docket No. EL03–30–000.

[7] 68 FR 1448 (2003).

11. Consequently, the Midwest ISO states that it determined that the transmission service queue at issue should be reprocessed consistent with the preemption methodology set forth in Section 6.8.1 of its Business Practices Manual. The Midwest ISO alleges that during a follow-up conversation with Cargill during the early afternoon of November 27, 2002, the Midwest ISO informed Cargill that the Midwest ISO was reprocessing the queue to ensure that requests were approved on a first-come, first-serve basis, in compliance with the source/sink Control Area limitations set forth in Section 6.8.1 of the Business Practices Manual. The Midwest ISO states that this was the first indication it provided to Cargill that Cargill's service request could be recalled.

12. On November 29, 2002, the Midwest ISO maintains that it completed its reevaluation of all incorrectly processed transmission service requests, including Cargill's request, and took immediate action to recall the service reservation. On that same day, the Midwest ISO states that it posted the OASIS notice recalling Cargill's service reservation. The Midwest ISO explains that the OASIS requires that a non-zero value be placed in the Capacity Requested and Capacity Granted fields, which required the Midwest ISO to set those fields at 1 MW in the OASIS notice. However, the Midwest ISO states that, in order to avoid confusion, it inserted in the Provider Comments field the following language: ''Request Recalled for the full 52 MWs. OASIS does not support full amount to be recalled.'' Moreover, the Midwest ISO states that on November 29, 2002, shortly after posting the OASIS notice, the Midwest ISO left a detailed telephone message with Cargill, explaining that Cargill's 52 MW request was being recalled in its entirety. The Midwest ISO further maintains that it followed the telephone message with an email to Cargill, again explaining the recall.

13. Based upon the foregoing, the Midwest ISO contends that it properly recalled Cargill's service reservation. The Midwest ISO argues that it has inherent authority to correct errors made during administration of its OATT. The Midwest ISO contends that at the time it had approved Cargill's 52 MW request, the Midwest ISO had failed to subject Cargill's request to the source and sink Control Area preemption methodology that is specified in Section 6.8.1 of its Business Practices. As a result, the Midwest ISO contends that it accepted several long-term firm requests, including Cargill's, which the Midwest ISO should have rejected and which instead caused the interface to be oversold. The Midwest ISO argues that, because they were processed in violation of the Midwest ISO's OATT and Business Practices, those reservations were void from the outset and subject to recall when the error was exposed.

14. Indeed, the Midwest ISO states that it had a basic duty as a regional transmission organization (RTO) to remedy the processing errors and resume compliance with its OATT and Business Practices by recalling the invalid reservations. The Midwest ISO states that, contrary to Cargill's assertion, the Commission has never required that such fundamental obligations be specified in a tariff or service agreement.

15. Likewise, the Midwest ISO argues that the S&CP Document does not require that the particular reasons for the recall of transmission capacity be set forth in its OATT, as Cargill contends. The Midwest ISO notes that section 4.2.13.10 of the S&CP Document states that ''[t]he particular reasons for these reductions are Tariff specific.'' The Midwest ISO maintains that it recalled Cargill's service reservation in order to resume application of the preemption methodology set forth in its Business Practices Manual, which, according to the Midwest ISO, complements and enhances the understanding of its OATT provisions and principles. Therefore, the Midwest ISO states that its reason for recalling the service reservation is tariff specific within the meaning of the S&CP Document.

16. Moreover, the Midwest ISO contends that Commission precedent authorizes transmission providers such as the Midwest ISO to recall capacity granted in error.[8] The Midwest ISO states that in *Williams Energy* the Commission denied the customer's request to reinstate a mistakenly-accepted request for service, based upon the Commission's finding that the transmission provider was authorized to correct the mistake within a reasonable period of time after discovering the error. The Midwest ISO states that, contrary to Cargill's contention, it gave Cargill timely notice of its processing error, over one month before the service reservation was to commence.

17. Finally, contrary to Cargill's assertion, the Midwest ISO argues that this proceeding relates to the Tenaska complaint. The Midwest ISO contends that Cargill's and Tenaska's complaints raise the identical issue regarding the Midwest ISO's application of its same source and sink Control Area preemption methodology. The Midwest ISO requests that, if the Commission does not deny Cargill's complaint, the Commission hold this proceeding in abeyance pending resolution of the Tenaska complaint.

18. In its comments, Tenaska states that it appreciates Cargill's concerns and is intervening in this proceeding to protect its own interests. Tenaska notifies the Commission that it sought transmission service from the Midwest ISO before Cargill made its requests with the Midwest ISO and asserts that it is rightfully ahead of Cargill in the queue. It asks that the Midwest ISO be directed to sort out and remedy the problems with its transmission queue and properly process requests for long-term firm transmission service.

Cargill's Response to the Midwest ISO's Answer

19. On January 24, 2003, Cargill filed a response disputing the facts set forth in the Midwest ISO's answer. Cargill states that, contrary to the Midwest ISO's contention, the Midwest ISO confirmed Cargill's service request using the source-sink methodology set forth in the Midwest ISO's Business Practices. To that end, Cargill proffers evidence of an OASIS posting and a phone conversation between a Midwest ISO employee and a Cargill employee, which according to Cargill reveal that the Midwest ISO relied upon its Business Practices in confirming Cargill's service reservation.

20. In addition, Cargill contends that the OASIS notice was not properly posted as a recall, but instead was posted as a new transmission service request created by the Midwest ISO, with the Midwest ISO listed as the customer for a fictional transaction for 1 MW of service. Further, Cargill states that less than three minutes after the Midwest ISO posted the language referring to the 52 MW service reservation, it removed that language from the OASIS notice. Cargill contends that the remaining language did not expressly refer to Cargill's service reservation. Moreover, Cargill contends that it has no evidence of receiving a voicemail or email from the Midwest ISO, regarding the recall.

21. Contrary to the assertions Tenaska sets forth in its comments, Cargill states that its confirmed service reservation should be acknowledged as having priority over Tenaska's unconfirmed requests in the Midwest ISO transmission queue. Cargill contends that Tenaska requested transmission service from AEP (source) to the MI-

[8] The Midwest ISO cites *Williams Energy* and *Powerex*.

IMO interface (sink) on September 25, 2002, while Cargill had confirmed service from PJM (source) to the IMO (sink) on November 21, 2002. Therefore, Cargill states that under the Midwest ISO's source-sink methodology, Tenaska's and Cargill's reservations do not compete.

Discussion

Procedural Matters

22. Pursuant to Rule 214 of the Commission's regulations, 18 CFR § 385.214 (2002), each timely, unopposed motion to intervene serves to make the entity that filed it a party to this proceeding. In addition, we will grant Duke Energy's untimely intervention, given its interest in this proceeding, the early stage of this proceeding, and the absence of any undue prejudice or delay. While Rule 213(a)(2) of the Commission's regulations, 18 CFR 385.213(a)(2) (2002), allows replies to answers only at the discretion of the decisional authority, we will allow Cargill's reply to the Midwest ISO's answer, as it has aided us in understanding the matters at issue in this proceeding.

Analysis

23. We find that the parties have raised material issues of fact upon which Cargill's complaint is based. More specifically, the parties dispute the circumstances under which Cargill's service reservation was accepted and recalled, and when Cargill received notice of the recall. Accordingly, pursuant to section 206 of the Federal Power Act [9] (FPA), we will set Cargill's complaint for hearing.

24. That being said, we strongly encourage the parties to settle this complaint. Accordingly, we will hold the hearing in abeyance and direct settlement judge procedures pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.[10] The Chief Judge shall appoint a settlement judge in this proceeding within 15 days of the date of issuance of this order. The settlement judge shall report to the Chief Judge and the Commission within 45 days of the date of this order concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

25. In cases where, as here, the Commission institutes an investigation on complaint under section 206 of the FPA, section 206(b) requires that the Commission establish a refund effective date that is no earlier than 60 days after the filing of the complaint, but no later than five months subsequent to the expiration of the 60-day period. Consistent with our general policy of providing maximum protection to customers,[11] we will set the refund effective date as of the date 60 days after the date of the filing of Cargill's complaint, or March 2, 2003.

26. Section 206(b) also requires that, if no final decision is rendered by the refund effective date or by conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to section 206, whichever is earlier, the Commission shall state the reasons why it has failed to do so and shall state the best estimate as to when it reasonably expects to make such a decision. Ordinarily, to implement that requirement, we would direct the presiding judge to provide a report to the Commission in advance of the refund effective date. Here, given that the refund effective date for the complaint is March 2, 2003, the Commission cannot follow its normal procedure.

27. Although we do not have the benefit of the presiding judge's report, based on our review of record, we expect that, assuming this case does not settle, the presiding judge should be able to render a decision within four months of the commencement of hearing procedures. After the presiding judge renders an initial decision, assuming the case does not settle, we estimate that we will be able to issue our decision within approximately two months of the filing of briefs on and opposing exceptions.

The Commission Orders

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the Federal Power Act, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held in Docket No. EL03–38–000, concerning the issues raised in Cargill's complaint against the Midwest ISO, as discussed in the body of this order. Also as discussed in the body of this order, we will hold the hearing in abeyance pending further Commission action and the settlement judge negotiations, as discussed in Paragraphs (B) and (C) below.

(B) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 CFR 385.603, the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within 15 days of the date of this order. Such settlement judge shall have all the powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge.

(C) Within 30 days of the date of this order, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every 30 days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(D) If the settlement procedures fail, and a trial-type evidentiary hearing is to be held, a presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in these proceedings to be held within approximately 15 days of the date the Chief Judge designates the presiding judge, in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Such conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(E) The refund effective date established pursuant to section 206(b) of the Federal Power Act is March 2, 2003.

(F) The Secretary shall promptly publish a notice of the Commission's initiation of the proceeding in EL03–38–000 in the **Federal Register**.

By the Commission.

Magalie R. Salas,

Secretary.

[FR Doc. 03–4337 Filed 2–24–03; 8:45 am]

BILLING CODE 6717–01–P

[9] 16 U.S.C. 824e (2002).

[10] 18 CFR 385.603 (2002).

[11] *See, e.g., Seminole Electric Cooperative, Inc.* v. *Florida Power & Light Company,* 65 FERC ¶ 61,413 at 63,319 (1993); Canal Electric Company, 46 FERC ¶ 61,153 at 61,539, *reh'g denied,* 47 FERC ¶ 61,275 (1989).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Settlement Agreement and Soliciting Comments

February 19, 2003.

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.

b. *Project No.:* P–696–010,—013.

c. *Date Filed:* February 13, 2003.

d. *Applicant:* PacifiCorp.

e. *Name of Project:* American Fork Hydroelectric Project.

f. *Location:* On American Fork Creek, near the City of American Fork, Utah County, Utah, about 3 miles east of Highland, Utah. The project affects about 28.8 acres of federal lands within the Uinta National Forest. Also, approximately 2,000 feet of flowline passes through the Timpanogos Cave National Monument, administered by the U.S. Department of the Interior, National Park Service.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 19 CFR 385.602.

h. *Applicant Contact:* Monte Garrett, Licensing Manager, PacifiCorp, 825 N.E. Multnomah, Suite 1500, Portland, OR 97232, phone: (503) 813–6629.

i. *FERC Contact:* Kenneth Hogan at (202) 502–8434, e-mail at *kenneth.hogan@ferc.gov.*

j. *Deadline for filing comments:* 20 days from the filing date. Reply comments due 30 days from the filing date.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. PacifiCorp filed the Settlement Agreement on behalf of itself and the U.S. Department of Agriculture Forest Service, U.S. Fish and Wildlife Service, National Park Service, Utah Division of Wildlife Resource, Utah Department of Transportation, Utah State Historic Preservation Office, Utah Council of Trout Unlimited, and American Whitewater. The purpose of the Settlement Agreement is to resolve among the signatories all issues associated with PacifiCorp's pending license application for a new Agreement, the parties support the decommissioning of the American Fork Hydroelectric Project. The parties agree that the Settlement Agreement is fair and reasonable and in the public's interest. The parties recommend that the Commission approve without modification the decommissioning and the interim measures set forth in the Settlement Agreement and Appendix A of that agreement, the Removal Plan.

l. A copy of the settlement agreement 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 for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

Magalie R. Salas,

Secretary.

[FR Doc. 03–4426 Filed 2–24–03; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2002–0012; FRL–7453–8]

Agency Information Collection Activities: Submission of EPA ICR No. 1541.07 (OMB No. 2060–0183) to OMB for Review and Approval; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NESHAP: Benzene Waste Operations (40 CFR part 61, subpart FF), OMB Control Number 2060–0183, EPA ICR Number 1541.07, expiration date 2/28/2003. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments must be submitted on or before March 27, 2003.

ADDRESSES: Follow the detailed instructions in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Rafael Sanchez, Compliance Assurance and Media Programs Division, Office of Compliance, Mail Code 2223A, United States Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number (202) 564–7028; fax number: (202) 564–0050; e-mail address: *sanchez.rafael@epa.gov.* Refer to EPA ICR Number 1541.07.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 20, 2002 (67 FR 41981), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OECA–2002–0012, which is available for public viewing at the Enforcement and Compliance Docket and Information Center (ECDIC) in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the ECDIC is (202) 566–1514. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice, and according to the following detailed instructions: (1) Submit your comments to EPA online using EDOCKET (our preferred method), by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mailcode: 2201T,

1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) Mail your comments to OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, *see* EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: NESHAP: Benzene Waste Operations (40 CFR part 61, subpart FF) (OMB Control Number 2060–0183, EPA ICR Number 1541.07). This is a request to renew an existing approved collection that is scheduled to expire on February 28, 2003. Under the OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: Any facility which manages a waste containing benzene must maintain records and submit reports to the Agency. There is a tiered threshold for burden. Facilities managing waste containing less than 1 megagram per year (Mg/yr) of benzene must certify to that effect and maintain documentation to support their finding. Facilities managing more than 1 Mg/yr and less than 10 Mg/yr of benzene-containing waste must prepare an initial certification, test annually to verify that their waste stream still falls within this range, and maintain documentation to support these findings. Facilities managing more than 10 Mg/yr of waste must submit quarterly and annual reports documenting the results of continuous monitoring. The Agency uses this information to determine compliance and to select plants or processes for inspection.

The required notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. Performance test reports are needed as these are the Agency's record of a source's initial capability to comply with the emission standard, and serve as a record of the operating conditions under which compliance was achieved. The monitoring and excess emissions reports are used for problem identification, as a check on source operation and maintenance, and for compliance determinations. The information collected from record keeping and reporting requirements is used for targeting inspections, and for other uses in compliance and enforcement programs.

Responses to this information collection are deemed to be mandatory, per section 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined not to be private. However, any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information (*see* 40 CFR part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 71 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and Operators of Benzene Waste Operations subject to Subpart FF.

Estimated Number of Respondents: 234.

Frequency of Response: Quarterly, Semi-annually.

Estimated Total Annual Hour Burden: 16,626.

Estimated Total Non-labor Annual Cost: $0.

There is a decrease of 402 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens due to a decrease in the number of regulated sources.

Dated: February 10, 2003.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 03–4372 Filed 2–24–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OA–2003–0003; FRL–7453–9]

Agency Information Collection Activities; Submission of EPA ICR No. 0275.08 (OMB No. 2090–0014) to OMB for Review and Approval; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Preaward Compliance Review Report for All Applicants Requesting Federal Financial Assistance. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before March 27, 2003.

ADDRESSES: Follow the detailed instructions in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Yasmin Yorker, Title VI Team Leader, Office of Civil Rights, (MC 1201A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–7272; fax number: 202–501–1836; e-mail address: *Yorker.Yasmin@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for

review and approval according to the procedures prescribed in 5 CFR 1320.12. On September 27, 2002 (67 FR 61087), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OA–2003–0003, which is available for public viewing at the OEI Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice, and according to the following detailed instructions: (1) Submit your comments to EPA online using EDOCKET (our preferred method), by e-mail to *oei.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) Mail your comments to OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, *see* EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: Preaward Compliance Review Report for All Applicants Requesting Federal Financial Assistance (OMB Control No. 2090–0014, EPA ICR Number 0275.08). This is a request to renew an existing approved collection that is scheduled to expire on 02/28/2003. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The information request and gathering is a part of the requirement of 40 CFR Part 7, ''Nondiscrimination in Programs Receiving Federal Assistance from the Environmental Protection Agency,'' at 40 CFR 7.80. The Regulation implements statutes which prohibit discrimination on the basis of race, color, national origin, sex and handicap. This information is also required, in part, by the Department of Justice regulation, 28 CFR 42.406 and 28 CFR 42.407. The information is collected on a short form for grant and loan applicants as part of the application process. The EPA Director of Civil Rights manages the data collection through a regional component whom also carries out the data analysis and makes the recommendation on the respondent's ability to meet the requirements of the regulation, as well as the respondent's current compliance with the regulation. The information and analysis is of sufficient value for the Director to determine whether the application is in compliance with the regulation.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average ½ hour per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: State, local, and tribal governments; universities, associations; and non-profit organizations.

Estimated Number of Respondents: 13,100.

Frequency of Response: Occasionally.

Estimated Total Annual Hour Burden: 6,550.

Estimated Total Annual Cost: $94,451, includes $0 annualized capital or O&M costs.

Dated: February 11, 2003.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 03–4373 Filed 2–24–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OW–2003–0004; FRL–7454–1]

Agency Information Collection Activities; Submission of EPA ICR No. 1569.05 (OMB No. 2040–0153) to OMB for Review and Approval; Comment Request

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Approval of State Coastal Nonpoint Pollution Control Programs (CZARA Section 6217). The ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before March 27, 2003.

ADDRESSES: Follow the detailed instructions in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Stacie Craddock, Assessment and Watershed Protection Division, Office of Wetlands, Oceans, and Watersheds (4503–T), Environmental Protection

Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–566–1204; fax number: 202–566–1545; e-mail address: *craddock.stacie@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 25, 2002 (67 FR 65563), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). On November 20, 2002 (67 FR 70070), EPA extended the comment period 30 days. EPA received one comment and has addressed the comment received.

EPA has established a public docket for this ICR under Docket ID No. OW–2003–0004, which is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice, and according to the following detailed instructions: (1) Submit your comments to EPA online using EDOCKET (our preferred method), by e-mail to *ow-docket@epa.gov,* or by mail to: Water Docket, Environmental Protection Agency, Mail Code 4101T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, and (2) Mail your comments to OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to http://www.epa.gov/edocket.

Title: Approval of State Coastal Nonpoint Pollution Control Programs (OMB Control No. 2040–0153, EPA ICR No. 1569.05). This is a request to renew an existing approved collection that is scheduled to expire on April 30, 2003. Under the OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: Under the provisions of national Program Development and Approval Guidance implementing section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) which was jointly developed and published by EPA and the National Oceanic and Atmospheric Administration (NOAA), 29 coastal States and 5 coastal Territories with Federally approved Coastal Zone Management Programs have developed and submitted to EPA and NOAA Coastal Nonpoint Pollution Programs. EPA and NOAA have approved 9 States and 3 Territories, conditionally approved 19 States and 2 Territories, and one State's initial program submission (Indiana) is currently under review. The conditional approvals will require States and Territories to submit additional information in order to obtain final program approval. Indiana will also need to submit information in order to obtain approval of its coastal nonpoint program. Administrative changes issued on October 16, 1998, and mutually agreed to by States, Territories, EPA and NOAA are expected to expedite the final approval process. CZARA section 6217 requires States and Territories to obtain final approval of their Coastal Nonpoint Pollution Programs in order to retain their full share of funding available to them under section 319 of the Clean Water Act and section 306 of the Coastal Zone Management Act. The information collected under section 6217 and this ICR will not require States and Territories to collect any confidential information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 148 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 20 States and 2 Territories with approved coastal zone management programs.

Estimated Number of Respondents: 22.

Frequency of Response: Once.

Estimated Total Annual Hour Burden: 3,250 hours.

Estimated Total Annual Cost: $113,738, includes $0 annualized capital or O&M costs.

Changes in the Estimates: There is a decrease of 375 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is the result of EPA and NOAA having fully approved 12 of the 34 programs.

Dated: February 10, 2003.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 03–4374 Filed 2–24–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OEI–2002–0012, OEI–2002–0013, OEI–2002–0014; FRL–7454–2]

Agency Information Collection Activities; Submission of EPA ICR No. 1039.10 OMB Control No. 2030–0005, EPA ICR No. 1037.07, OMB Control No. 2030–0007, and EPA ICR No. 0246.08, OMB Control No. 2030–0016 to OMB for Review and Approval; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following three continuing Information Collection Requests (ICRs) have been forwarded to the Office of Management and Budget (OMB) for review and approval: (1) Monthly Progress Reports, OMB Control No. 2030–0005, EPA ICR No. 1039.10, (2) Oral and Written Purchase Orders, OMB Control No. 2030–0007, EPA ICR No. 1037.07; and (3) Contractor Cumulative Claim and Reconciliation, OMB Control No. 2030–0016, EPA ICR No. 0246.08. The ICRs, which are abstracted below, describe the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before March 27, 2003.

ADDRESSES: Follow the detailed instructions in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Brian K. Long, Policy, Training and Oversight Division, Office of Acquisition Management, Mail Code: 3802–R, 202–564–4737, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–4737; fax number: 202–565–2552; e-mail address: *long.brian@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following individual continuing ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On 07/26/02 (67 FR 48891), EPA sought comments on the ICRs pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for these ICRs under Docket ID Nos. OEI–2002–0012 (Monthly Progress Reports), OEI–2002–0013 (Oral and Written Purchase Orders, and OEI–2002–0014 (Contractor Cumulative Claim and Reconciliation, which are available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice, and according to the following detailed instructions: (1) Submit your comments to EPA online using EDOCKET (our preferred method), by e-mail to *oei.docket.@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) Mail your comments to OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: Monthly Progress Reports (OMB Control No. 2030–0005, EPA ICR No. 1039.10). This is a request to renew an existing approved collection that is scheduled to expire on 02/28/03. Under the OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: Agency contractors who have cost reimbursable, time and material, labor hour, or indefinite delivery/indefinite quantity fixed rate contracts will report the technical and financial progress of the contract on a monthly basis. EPA will use this information to monitor the contractor's progress under the contract. Responses to the information collection are mandatory for contractors performing under a cost reimbursement contract, and are required to receive monthly reimbursement. Information submitted is protected from public release in accordance with the Agency's confidentiality regulations, 40 CFR 2.201.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average about 36 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Contractors holding cost reimbursable contracts with EPA.

Estimated Number of Respondents: 324.

Frequency of Response: Monthly.

Estimated Total Annual Hour Burden: 140,940 hours.

Estimated Total Annual Cost: $10,403,160, of which $39,000 is Operational and Maintenance.

Changes in the Estimates: There is a decrease of 36,105 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This is due to a reduction in the total number of active contracts and corresponding responses than previously reported.

Title: Oral and Written Purchase Orders, (OMB Control No. 2030–0007, EPA ICR No. 1037.07). This is a request to renew an existing approved collection that is scheduled to expire on 02/28/03. Under the OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: When EPA has a requirement for supplies or services and the value of same is under the simplified acquisition threshold, the Agency solicits verbal or written quotes from potential vendors. Vendor responses are voluntary and generally consist of item name, unit cost, delivery terms, company name, small business status, address, phone number, and point of contact. The Agency uses the collected information to make award decisions and obtain needed supplies and services.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 15 minutes per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Contractors who seek to provide supplies and services to the EPA under simplified acquisition procedures.

Estimated Number of Respondents: 28,462.

Frequency of Response: 1 per year.

Estimated Total Annual Hour Burden: 7,116 hours.

Estimated Total Annual Cost: $136,618.

Changes in the Estimates: There is a decrease of 2,257 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is solely due to the drop in the number of purchase orders awarded over $25,000. In addition, the number of purchase orders awarded with a value less than $2,500 have decreased slightly due to the use of the Government-wide commercial purchase cards.

Title: Contractor Cumulative Claim and Reconciliation, (OMB Control No. 2030–0016, EPA ICR No. 0246.08). This is a request to renew an existing approved collection that is scheduled to expire on 02/28/03. Under the OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: At the completion of a cost reimbursement contract, contractors will report final costs, incurred, including direct labor, materials, supplies, equipment, and other direct charges, subcontracting, consultant fees, indirect costs, and fixed fee. Contractors will report this information on EPA Form 1900–10. This form will be used to reconcile the contractor's costs. Establishment of the final costs and fixed fee is necessary to close-out the contract, and is required to receive final payment. Information submitted is protected from public release in accordance with the Agency's confidentiality regulation, 40 CFR 2.201 *et seq.*

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 40 minutes per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Contractors holding cost reimbursable contracts with the Agency.

Estimated Number of Respondents: 247.

Frequency of Response: Completion of contract.

Estimated Total Annual Hour Burden: 163 hours.

Estimated Total Annual Cost: $6,819 of which $2,470 is Operational and Maintenance.

Changes in the Estimates: There is an increase of 98 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. The increase is solely due to the estimated number of information collected based on a large quantity of contracts closed out during FY 2002. EPA expects to continue to close out contracts at a high volume.

Dated: February 4, 2003.

Doreen Sterling,

Acting Director,

Collection Strategies Division.

[FR Doc. 03–4375 Filed 2–24–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7454–6]

Gulf of Mexico Program Management Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act (Pub. L. 92–463), EPA gives notice of a meeting of the Gulf of Mexico Program (GMP) Management Committee (MC).

DATES: The meeting will be held on Wednesday, March 12, 2003, from 10 a.m. to 5:30 p.m., and on Thursday, March 13, 2003, from 8:30 a.m. to 1 p.m.

ADDRESSES: The meeting will be held at the Double Tree Hotel, 300 Canal Street, New Orleans, Louisiana. (1–888–874–9074)

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal

Officer, Gulf of Mexico Program Office, Mail Code EPA/GMPO, Stennis Space Center, MS 39529–6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: Proposed agenda items include: Update on Progress of Executive Order, FY 2005 State Project Meetings, Report on Mercury Project Team Meeting, Report on Nutrient Pilot Study in Northern Gulf, Report on Pilot Nitrogen Farming Project, Gulf of Mexico Governor's Accord Workgroup Coordination, Harte Institute Proposal for Joint Symposium, The Nature Conservancy Migratory Birds Proposal.

The meeting is open to the public.

Dated: February 14, 2003.

Gloria D. Car,

Designated Federal Officer.

[FR Doc. 03–4379 Filed 2–24–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7454–7]

Final Guidance on Completion of Corrective Action Activities at RCRA Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The purpose of this notice is to provide the newly issued ''Guidance on Completion of Corrective Action Activities at RCRA Facilities'' memorandum to regulators and to the regulated community. The memorandum provides the EPA Regions, the States, Tribes, the regulated community, members of the public, and other stakeholders with guidance on significant issues related to completion of corrective action activities at RCRA facilities. It provides guidance on when each type of completion determination is appropriate. It also discusses completion determinations for less than an entire facility. Finally, it provides guidance on procedures for EPA and the authorized States when making completion determinations.

DATES: This guidance was issued February 13, 2003.

ADDRESSES: For more detailed information on specific aspects of the guidance document, contact Barbara Foster, Office of Solid Waste 5303W, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (703–308–7057), (*foster.barbara@epa.gov*), or Peter Neves, Office of Site Remediation Enforcement 2273A, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460 (202–564–6072) (*neves.peter@epa.gov*).

SUPPLEMENTARY INFORMATION: EPA has established an official public docket for this action under Docket ID No. RCRA–2001–0004. The official public docket is the collection of materials that is available for public viewing at the OSWER Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Docket is (202) 566–0270.

You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.* An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above. Once in the system, select ''search,'' then key in the appropriate docket identification number.

The guidance document, which is published below, was issued as a memorandum from EPA headquarters to the Regional offices. If you would like to receive a hard copy, please call the RCRA Call Center at 800–424–0346 or TDD 800–553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703–412–9810 or TDD 703–412–3323. Additional information about RCRA corrective action is available on the Internet at: *http://www.epa.gov/correctiveaction.*

Background

On October 2, 2001, EPA published a notice in the **Federal Register** requesting comment on a draft guidance document entitled ''Recognizing Completion of Corrective Action Activities at RCRA Facilities'' (*see* 66 FR 50195). Comments received by the Agency on that draft guidance largely supported the content, but expressed concern that the Agency needed to expand the scope of the guidance, for example, to address when and under what circumstances decisions that corrective action is complete should be made.

On February 27, 2002, the Agency published a second draft guidance in the **Federal Register** (*see* 67 FR 9174), which included most elements of the first draft, but was expanded to discuss two types of corrective action completion determinations. The Agency again solicited comment on the guidance.

Generally, commenters on the February 27 draft guidance supported the Agency's effort (and some supported all or part of the Agency's approach) to develop guidance related to completion of corrective action. However, some commenters raised concerns about aspects of the guidance, with many commenters offering suggestions for revising the guidance. The Agency modified the draft guidance in response to comments received, and the resulting final ''Guidance on Completion of Corrective Action Activities at RCRA Facilities'' memorandum is published below in this **Federal Register** notice.

Discussion of Public Comment

Comments Related to the Definition of Completion

In the February 27, 2002 **Federal Register** notice, the Agency described two types of completion of corrective action. For both types, all of the following have been satisfied: (1) A full set of corrective measures is defined; (2) the facility has completed construction and installation of all required remedial actions; (3) site-specific media cleanup objectives, which were selected based on current and reasonably expected future land use, and maximum beneficial groundwater use, have been met.

A Corrective Action Complete without Controls [1] means that these objectives have been met, and the areas subject to the determination do not require any additional action or measures to ensure the remedy remains protective of human health and the environment. For Corrective Action Complete with Controls, all that remains is performance of required operation and maintenance and monitoring actions, and/or compliance with and

[1] In the February 27, 2002 **Federal Register** notice, this form of completion was referred to as Corrective Action Complete. The Agency added ''without controls'' in this final guidance to more clearly reflect that this is a form of completion (*see* discussion of comments below).

maintenance of any institutional controls.

The Agency received many comments on those two types of completion.

While commenters generally agreed with the two types of completion, there was widespread concern among the commenters that they would not be useful for many facilities. Commenters believed that Corrective Action Complete (without controls), as described, may never be achieved by some facilities, and that Corrective Action Complete with Controls, because of the third criterion (that final remedy cleanup objectives have been met) would not be attainable by many facilities within a reasonable timeframe, particularly in the case of restoration of contaminated groundwater. Commenters expressed the need for a formal and public recognition of progress that could be achieved within a reasonable timeframe. Some requested that the Agency modify the definition of Corrective Action Complete with Controls to remove the criteria that cleanup objectives be met to provide a measure that can be achieved within a timeframe that is reasonable. Others suggested that the Agency establish a provisional type of corrective action complete designation.

The Agency recognizes that in carrying out an extensive and complex corrective action a facility can achieve several significant milestones, and recently described in detail a strategy for RCRA corrective action that includes short-term protection goals, intermediate performance goals, and final cleanup goals (*see Handbook of Groundwater Protection and Cleanup Policies for RCRA Corrective Action,* September, 2001, Sections 1.2–1.3, (*http://www.epa.gov/epaoswer/hazwaste/ca*), and Environmental Indicator Guidance, February, 1999, (*http://www.epa.gov/epaoswer/hazwaste/ca/eis*)).

This final guidance was not designed to guide regulators in recognizing progress at facilities where short-term protection goals or intermediate performance goals have been achieved. Rather, it was designed to recommend steps that regulators might take where the site-specific media cleanup objectives, identified based on the current and reasonably anticipated use of the site, have been met.

The Agency continues to believe that it is important to distinguish between situations where significant progress has been made toward final cleanup, and situations where corrective action is actually complete. The Agency believes that a ''completion'' determination signals to all parties involved that corrective action activities no longer are necessary (though controls to ensure the remedy remains protective may be necessary), and thus are preferably reserved for situations where there is no further cleanup activity to conduct—regardless of how long it might take to achieve site-specific media cleanup objectives. The Agency is concerned that making ''completion'' determinations at facilities that have not yet achieved final cleanup goals would jeopardize the integrity of that distinction, potentially be misleading, and minimize the accomplishment of facilities that truly have completed corrective action.

At the same time, the Agency recognizes that the commenters raised a valid concern—that owners and operators often need a formal recognition of progress at a landmark that can be achieved within a reasonable timeframe. Rather than encourage regulators to recognize completion prematurely, however, the Agency would prefer to address commenters' concern by formally recognizing progress at an earlier step in the corrective action process—where remedial measures are in place and operating, but cleanup objectives have not yet been met—in addition to recognizing completion of corrective action. The Superfund program makes ''Construction Complete'' designations at this point in its cleanups; EPA believes it is appropriate to recognize the analogous stage in RCRA corrective action as well. At that point in the cleanup process, while remedial measures continue to be implemented, final remedial decisions have been made and, at some facilities, environmental and human health risks may have been controlled such that the facility is ready for reuse. In recognition of the valid concerns raised by commenters, the Agency plans to investigate, in another forum, how it might formally and publicly recognize an earlier milestone in the corrective action process, analogous to Superfund's ''construction complete.'' [2]

Some commenters were concerned that, because the criteria discussed in the draft guidance for ''Corrective Action Complete with Controls'' determinations included achievement of site-specific media cleanup objectives, which were selected based on current and reasonably expected future land use and maximum beneficial groundwater use, the guidance would be interpreted to mean that groundwater would be restored to drinking water standards in all cases. The Agency disagrees with that interpretation of the draft guidance, and believes that interpretation is inconsistent with the September, 2001 *Handbook of Groundwater Protection and Cleanup Policies for RCRA Corrective Action,* which is the Agency's most current guidance on groundwater issues related to RCRA corrective action. However, the Agency removed references to ''maximum beneficial use of groundwater'' from this final guidance for two other reasons. First, the draft guidance did not discuss cleanup standards for all media—in fact, the discussion was limited to groundwater. The Agency did not intend this guidance to address the issue of cleanup standards for the various media addressed through corrective action, and saw no reason to single out groundwater for discussion. Second, the Agency was concerned that provisions of the *Groundwater Handbook* when discussed in this guidance might be interpreted differently than they would within the context of the handbook itself. The September, 2001 *Groundwater Handbook* represents current Agency guidance on groundwater issues for the corrective action program, and EPA does not intend for this final Completion Guidance to address, or modify its guidance on, groundwater issues. The Agency is exploring a cross-program ''Ground Water Working Group,'' [3] as a forum to identify and discuss groundwater issues of importance to multiple EPA programs, and to develop options for addressing those issues.[4]

Finally, some commenters were concerned that Corrective Action Complete with Controls would be considered a stepping stone toward Corrective Action Complete without Controls, rather than a form of completion in and of itself. Commenters requested that the Agency clarify that Corrective Action Complete with Controls is a form of completion. The Agency agrees with commenters that Corrective Action Complete with Controls is a form of completion, and

[2] One likely forum is the ''One Cleanup Program'' initiative currently under development by the Agency. As part of that initiative, the Agency is examining ways to promote consistency, where appropriate, among all of its cleanup programs.

[3] *See* memorandum dated September 18, 2002 from Michael B. Cook to EPA Addressees entitled ''Cross-Program Ground Water Working Group.''

[4] It should be noted that the Agency also removed language regarding land use from the description of corrective action complete with controls. Again, EPA simply removed the language because the Agency is not discussing media cleanup standards in this guidance. For a discussion of reasonably foreseeable land use, *see Reuse Assessments: A Tool to Implement the Superfund Land Use Directive,* June 4, 2001, OSWER Directive 9355.7–06p.

not a stepping stone toward Corrective Action Complete without Controls. For example, EPA recognizes that a final remedy that involves the use of institutional controls to maintain protection of human health and the environment is, nonetheless, a final remedy. EPA believes that owners and operators should be able to implement a final remedy, including one that involves institutional controls, with assurance that the Agency generally will not require additional corrective action at a later date so long as the controls, which help assure protection of human health and the environment, are effective.

It should be noted, however, that in the case of a Corrective Action Complete with Controls determination, protection of human health and the environment is dependent upon the maintenance of the controls. Should the controls fail, a risk to human health and/or the environment might require additional action. That action might include different or additional controls, or it might involve additional cleanup. This does not mean that the Agency intends to revisit Corrective Action Complete with Controls determinations for the purpose of achieving Corrective Action Complete without Controls determinations. Rather, the Agency expects final remedies to be effective not just at the moment that the completion determination is made, but in the long-term as well.

In addition, the Agency anticipates that there may be circumstances where an owner or operator of a facility that has received a Corrective Action Complete with Controls determination may choose in the future to conduct additional cleanup and obtain a Corrective Action Complete without Controls determination. For example, if a remedy included a restriction that the property be used only for industrial purposes, and the owner or operator were to decide to convert the property to residential use, additional cleanup would likely be necessary. Or, an owner or operator might choose to conduct additional cleanup and return the property to unrestricted use in order to end the responsibility for maintaining controls at the facility. However, under these examples, the decision to conduct additional corrective action would be that of the owner or operator.

In response to commenters' concerns described above, the Agency made two modifications to the guidance. In the February 27, 2002 **Federal Register** notice, the two types of completion were designated ''Corrective Action Complete'' and ''Corrective Action Complete with Controls.'' The Agency modified the terms used to refer to the two types of completion by adding ''without Controls'' to ''Corrective Action Complete.'' The Agency believes that the resulting two designations—Corrective Action Complete without Controls and Corrective Action Complete with Controls—more clearly reflect that both are forms of completion. The Agency also added language to the guidance to clarify that Corrective Action Complete with Controls is, in and of itself, a form of completion, and not a stepping stone toward Corrective Action Complete without Controls.

One additional modification to the definition of Corrective Action Complete with Controls should be noted. In the February 27, 2002 **Federal Register** notice, the fourth factor for a Corrective Action Complete with Controls determination stated ''all that remains is * * * compliance with and implementation of any institutional controls.'' In this final guidance, the Agency changed ''implementation'' to ''maintenance'' in this phrase. The Agency made this change to avoid an interpretation that ''implementation'' includes actions related to getting institutional controls in place, such as selection or securing institutional controls. ''Maintenance,'' more clearly conveys that the phrase ''Corrective Action Complete with Controls'' means that the appropriate controls are in place.

Comments Related to Procedures for Completion Determinations

The draft guidance published in both the October 2, 2001 and the February 27, 2002 **Federal Register** notices suggested procedures for making completion determinations at permitted and non-permitted facilities. Generally commenters agreed with those procedures, and they are included in this guidance. However, commenters expressed concerns about language in the guidance related to permit modifications. The draft guidance suggested that at permitted facilities, Class 3 permit modification procedures generally would be appropriate for modifying a permit to recognize a completion determination. Commenters on the October 2, 2001 **Federal Register** notice suggested that, in many cases, a Class 1 procedure would be appropriate. The Agency added language (in a footnote) to the draft guidance in the February 27, 2002 notice to recognize that, in some cases, Class 3 procedures might not be necessary (see 67 FR 9174 at 9177). However, commenters on the February 27, 2002 notice repeated the same concerns that the guidance suggested that Class 3 procedures were appropriate for recognizing completion and that those procedures would be unduly burdensome.

The Agency believes that when it recognizes completion of corrective action at a facility, it is taking a step that is significant not only to the facility, but to the local community as well. Thus, the Agency believes it is important that the community have an opportunity to be involved in the Agency's decision. The Agency agreed with commenters that there may be circumstances where Class 3 procedures might be burdensome and reap little benefit, and recognized those situations in the February 27, 2002 draft completion guidance. However, the Agency continues to believe that Class 3 procedures will be appropriate procedures for recognizing completion determinations at most facilities.

To address commenters concerns, the Agency has emphasized in this guidance that Class 3 procedures might not be appropriate in all situations by strengthening that discussion and moving it to the text of the guidance from the footnote.

Completion Determinations for Portions of a Facility

In the February 27, 2002 draft guidance, the Agency discussed making completion determinations for a portion of a facility. There was widespread support among commenters for recognizing completion determinations for a portion of a facility, and this final guidance retains that discussion. At the same time, the Agency recognizes that the discussion in this guidance addresses only a few of the issues related to parceling of RCRA facilities. The Agency agrees with the commenter who accurately pointed out that by supporting completion determinations for portions of a facility under the circumstances described in this guidance, the Agency has taken the first step toward addressing related issues.

Methods To Implement Institutional Controls

The February 27, 2002 draft guidance discussed and requested comment on the issue of implementation of institutional controls at facilities that receive Corrective Action Complete with Controls determinations. The draft guidance suggested that, in most cases, a permit or order should be maintained following a Corrective Action Complete with Controls determination, but noted that regulators might find alternative methods for ensuring continued effectiveness of the institutional controls at a facility.

The Agency received many comments related to implementation of institutional controls. Commenters were not in agreement on the issue of whether permits and/or orders should be maintained at facilities where Corrective Action Complete with Controls determinations are made, or, more broadly, on more effective methods for implementing institutional controls.

After reviewing comments, the Agency generally believes that the approach it took in the draft guidance is appropriate, although the Agency is also interested in exploring and evaluating alternative methods for the continued effectiveness of institutional controls at a facility. The Agency recognizes that effective implementation of institutional controls is vital to continued protection of human health and the environment following a Corrective Action Complete with Controls determination at RCRA facilities (and at facilities where cleanup is conducted under other programs, such as Superfund) where the remedy depends upon institutional controls, and continues to explore the complex issues related to institutional controls. However, the Agency did not attempt to address those complex issues in this guidance.

The Agency continues to focus attention on the evolving and complex issues associated with institutional controls. In the near future EPA will finalize a cross-program guidance entitled, ''Institutional Controls: A Guide to Implementing, Monitoring, and Enforcing Institutional Controls at Superfund and RCRA Corrective Action Cleanups'' that will serve as a companion to guidance issued in 2000 entitled ''Institutional Controls: A Site Manager's Guide to Identifying, Evaluating, and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups,'' September 2000, OSWER Directive 9355.0–74FS–P. Additionally, the Agency is currently at work developing a national institutional control tracking system; supporting the development of a model state institutional control law; and evaluating the need for guidance on estimating institutional control costs, institutional control implementation plans, and ensuring compliance with institutional controls.

Comments Not Addressed in This Federal Register Notice

The final guidance published in this Federal Register notice describes two types of completion of corrective action, and suggests processes for recognizing completion. The comments discussed above were directly related to the issues discussed in the guidance. The Agency recognizes that completion of corrective action raises many issues for regulators and for owners and operators, including issues related to transfer of RCRA facilities (or portions of facilities), sometimes referred to as ''parceling,'' financial assurance, and institutional controls. In addition, completion of corrective action at some facilities, such as Federal Facilities, may present unique issues. EPA received comments on these related issues as part of the comment it received on the October 2, 2001 and February 27, 2002 draft guidances. The Agency reviewed all of those comments, but those that were not directly related to issues discussed in the draft guidance documents are not addressed in this notice.

EPA believes that, because of the multitude and complexity of the issues related to completion of corrective action, the best approach to these issues is to make continuous incremental progress in addressing them. Using this approach, the Agency has limited the scope of the discussion in this final guidance, but hopes that it has opened dialogue on, and will establish a foundation for, some of the broader issues related to completion of corrective action, to be addressed at a later time. The Agency encourages commenters to continue to provide input on these important issues as they are addressed.

Dated: February 13, 2003.

Robert Springer,

Director, Office of Solid Waste.

Dated: February 12, 2003.

Susan E. Bromm,

Director, Office of Site Remediation Enforcement.

Memorandum

Subject: Guidance on Completion of Corrective Action Activities at RCRA Facilities.

From: Robert Springer, Director, Office of Solid Waste; Susan E. Bromm, Director, Office of Site Remediation Enforcement.

To: RCRA Division Directors, Regions I–X, Enforcement Division Directors, Regions I–X, Regional Counsel.

Introduction

This memorandum provides guidance to the Regions and authorized States on acknowledging completion of corrective action activities at RCRA treatment, storage, and disposal facilities. It describes two types of completion determinations—''Corrective Action Complete without Controls'' and ''Corrective Action Complete with Controls.'' It provides guidance on when each type of completion determination is appropriate. It also discusses completion determinations for less than an entire facility. Finally, it provides guidance on procedures for EPA and the authorized States when making completion determinations.

This document provides guidance to EPA Regional and State corrective action authorities, as well as to facility owner or operators and the general public on how EPA intends to exercise its discretion in implementing the statutory and regulatory provisions that concern RCRA corrective action. The RCRA statutory provisions and EPA regulations described in this document contain legally binding requirements. This document does not substitute for those provisions or regulations, nor is it a regulation itself. Thus, it does not impose legally-binding requirements on EPA, States, or the regulated community, and may not apply to a particular situation based upon the circumstances. EPA and State decisionmakers retain the discretion to adopt approaches on a case-by-case basis that differ from this guidance where appropriate. Any decisions regarding a particular facility will be made based on the applicable statutes and regulations. Therefore, interested parties are free to raise questions and objections about the substance of this guidance, and the appropriateness of the application of this guidance to a particular situation. EPA will consider whether or not the recommendations or interpretations in the guidance are appropriate in that situation. The Agency welcomes public comment on this document at any time, and will consider those comments in any future revision of this guidance document.

Background

EPA recognizes the importance of an official acknowledgment that corrective action activities have been completed. An official completion determination, made through appropriate procedures, benefits the owner or operator of a facility, the regulatory agency implementing the corrective action program, and the public. Official recognition that corrective action activities are complete can, among other things, promote transfer of ownership of the property and, in some cases, can help return previously used commercial and industrial properties, such as ''brownfields,'' to productive use. Further, once the regulatory agency implementing corrective action makes a determination that corrective action activities are complete, it can focus agency resources on other facilities. Finally, if completion determinations

are made through a process that provides adequate public involvement, the process of making a formal completion determination will assure the public an opportunity to review and comment on the cleanup activities, and to pursue available administrative and/or judicial challenges to the agency's decision.[5]

Under 40 CFR section 264.101, owners and operators seeking a permit for the treatment, storage or disposal of hazardous waste must conduct corrective action ''as necessary to protect human health and the environment.''[6] The ultimate goal of corrective action is to satisfy the ''protection of human health and the environment'' standard. Thus, a determination by EPA (or a State authorized by EPA to implement the Corrective Action Program) that corrective action activities are complete is, in effect, an announcement that the ''protection of human health and the environment'' standard has been achieved.[7]

With experience, the Agency has discovered that the universe of facilities subject to corrective action requirements includes facilities that vary widely in complexity, extent of contamination, and level of risk presented at the facility. To address this wide variation among corrective action facilities, the Agency has developed multiple approaches to achieving ''protection of human health and the environment.''

When conducting corrective action, however, one of the key distinctions among remedies is the extent to which they rely upon controls (engineering and/or institutional)[8] to ensure that they remain protective. In some cases, the Agency selects a remedy that requires treatment and/or removal of waste and all contaminated media to levels that allow the facility to be used in an unrestricted manner.[9] At these facilities, no additional oversight or activity is required following cleanup. When implementation of the remedy is completed successfully, protection of human health and the environment is achieved.

In other cases, the Agency selects a remedy that allows contamination to remain on site, but imposes ongoing obligations concerning, for example, operation and maintenance of engineered controls (*e.g.*, a landfill cap), and compliance with institutional controls (*e.g.*, a restriction that land be used for industrial purposes only). Thus, in these situations, the goal of ''protection of human health and the environment'' often is achieved through use of a remedy (*e.g.*, containment) that allows some contamination to remain in place, but requires controls (engineering and/or institutional) at the facility to prevent or to limit the risk of exposure through release of contamination that remains following cleanup. Following remedy implementation, maintenance of controls and continued corrective action related activities (such as monitoring) at such facilities are fundamental elements of meeting the standard of ''protection of human health and the environment.''[10]

An example of a situation where the Agency typically chooses a remedy that relies on controls is a facility for which the reasonably foreseeable use is industrial.[11] At those facilities, the Agency may offer the facility the option to achieve long-term protection of human health and the environment by selecting a remedy that allows higher levels of contamination to remain at the facility, but requires the use of controls to limit the risk of unacceptable exposure. This remedy is considered the final remedy; however, protection of human health and the environment at the facility typically is dependent on maintenance of controls.

Types of Completion Determinations

As was discussed above, a determination by EPA that corrective action activities are complete is a statement by the Agency that protection of human health and the environment has been achieved at a facility. As was also discussed above, the Agency takes different approaches to achieving protection of human health and the environment at facilities, depending on the site-specific circumstances. Completion determinations benefit the owner or operator, the community, and the regulatory agency. Therefore, EPA recommends that regulators implementing the corrective action program make completion determinations where corrective action activities have assured long-term protection of human health and the environment at a facility. EPA anticipates two types of completion determinations—Corrective Action Complete without Controls, and Corrective Action Complete with Controls. These two types of completion determinations, and recommended procedures for making them, are described below.

1. Corrective Action Complete Without Controls Determination

EPA believes that it is appropriate for it, or for an authorized State, to make a determination that Corrective Action is Complete without Controls where the facility owner or operator has satisfied all obligations under sections 3004(u) and (v).[12] The Agency recommends this terminology be used to indicate that either there was no need for corrective action at the facility or, where corrective action was necessary, the remedy has

[5] The Agency anticipates that at facilities where meaningful public involvement begins early in the corrective action process, challenges are less likely at the end of the process.

[6] Likewise, section 3008(h) establishes a standard of ''protection of human health and the environment'' for corrective action imposed through orders. This guidance is equally applicable at facilities where EPA addresses facility-wide corrective action through an enforcement authority, rather than a permit.

[7] Note that for facilities that continue to require a permit for the treatment, storage, or disposal of hazardous waste, a completion determination in no way affects the ongoing requirement to conduct corrective action for any future releases at the facility, and the Agency recommends that any completion determinations at such facilities be structured to make this clear.

[8] EPA has defined institutional controls as ''non-engineered instruments such as administrative and/or legal controls that minimize the potential for human exposure to contamination by limiting land or resource use.'' They are almost always used in conjunction with, or as a supplement to, other measures such as waste treatment or containment. There are four general categories of institutional controls: Government controls; proprietary controls; enforcement tools; and information devices. (*See* Fact Sheet entitled ''Institutional Controls: A Site Managers Guide to Identifying, Evaluating, and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups,'' September 2000, OSWER Directive 9355.0–74FS–P).

[9] ''Unrestricted use'' refers to a walk-away situation, where no further activity or controls are necessary to protect human health and the environment at the facility. Generally, a cleanup of soil to residential standards and of groundwater to drinking water standards would be an example of an unrestricted use scenario. By comparison, a cleanup of soil to industrial soil levels, and/or containment or cleanup of groundwater to levels in excess of drinking water standards usually would not be an unrestricted use scenario. Under both scenarios, the Agency does not generally anticipate having to impose additional corrective action requirements because the remedy is protective of human health and the environment. The difference is that, under the second scenario, protection of human health and the environment is dependent on the maintenance of the remedy, including institutional controls.

[10] It should be noted that, at these facilities, cleanup to unrestricted use levels and a Corrective Action Complete without Controls determinations (*see* discussion below in section 2) ultimately could be achieved under a variety of scenarios—for example, the plan for land use at a facility might change; the owner or operator might decide to return the site to unrestricted use, or the facility might otherwise reach that state (*e.g.*, through natural attenuation). At that time, the Agency could discontinue the requirement for controls.

[11] *See Reuse Assessments: A Tool to Implement the Superfund Land Use Directive,* June 4, 2001, OSWER Directive 9355.7–06p, for a discussion of reasonably foreseeable land use.

[12] Or the owner or operator has completed facility-wide corrective action, as necessary to protect human health and the environment, imposed through a section 3008(h) order.

been implemented successfully,[13] and no further activity or controls are necessary to protect human health and the environment.

Under the approach described in this guidance, a determination that Corrective Action is Complete without Controls means that no additional remedial activity would be required on the part of the regulatory agency or the owner or operator to maintain protection of human health and the environment. No controls are necessary at the facility to maintain protection of human health and the environment. Thus, the corrective action requirements can be eliminated. It is likely that the facility will be eligible for release from financial assurance for corrective action, as no funds should be needed in the future for corrective action-related activities. In addition, when there no longer are RCRA-regulated activities at the facility, the regulatory agency will likely have no concerns associated with transfer of the property, nor any reason to want to be informed of, or take an action regarding, that transfer.

2. Corrective Action Complete With Controls Determination

EPA generally believes it is appropriate to make a Corrective Action Complete with Controls determination at a facility where: (1) A full set of corrective measures has been defined; (2) the facility has completed construction and installation of all required remedial actions; (3) site-specific media cleanup objectives have been met; and (4) all that remains is performance of required operation and maintenance and monitoring actions, and/or compliance with and maintenance of any institutional controls. A Corrective Action Complete with Controls determination provides the owner or operator with recognition that protection of human health and the environment has been achieved, and will continue as long as the necessary operation and maintenance actions are performed, and any institutional controls are maintained and complied with.

It is important to ensure that an enforceable mechanism is in place so that there is compliance with and maintenance of the controls. Regions and States have often ensured that controls are maintained through a RCRA permit or order at the facility in that continuation of the permit or order assures periodic review by the regulatory agency, compliance with any operation and maintenance requirements and institutional controls, and notification to the regulatory agency of transfers of the facility (which allows an opportunity for the agency to assure that compliance with corrective action requirements will continue).[14] Permits and orders will continue to be used as enforceable mechanisms to assure compliance. However, the Agency believes that other enforceable mechanisms also may be appropriate for implementing institutional controls. For example, several States have passed legislation that creates mechanisms to enforce institutional controls, a development that EPA encourages. For facilities where long-term institutional controls are necessary to ensure continued protection of human health and the environment, the regulator may explore a variety of options including permits, orders, and other enforceable mechanisms to maintain the institutional controls. In addition, where necessary, financial assurance for corrective action should be maintained at facilities following a Corrective Action Complete with Controls determination.

It should be noted that, at some point, many facilities that obtain a Corrective Action Complete with Controls determination might later obtain a Corrective Action Complete without Controls determination if circumstances were to change. For example, the owner or operator at a facility cleaned up to industrial levels could decide to conduct additional cleanup because there was a desire to change land use to unrestricted use levels, and/or because they no longer wished to maintain controls. Should a facility later seek a Corrective Action Complete without Controls determination, the regulatory agency should process that determination through appropriate procedures, such as those described below. If the Corrective Action Complete without Controls determination were made, it would be appropriate to remove whatever enforceable mechanism is in place, and release the facility from financial assurance for corrective action, so long as there are no additional RCRA activities at the facility subject to permit requirements.

Completion Determinations for a Portion of a Facility

Regulators implementing the corrective action program often develop a number of distinct and separate remedies to address different areas of a facility or different media. This approach may be necessary because a facility may include areas and media that present a range of environmental risks. For example, an industrial facility may include areas that may never have been used for industrial purposes or have never been otherwise contaminated. Alternatively, a facility may have contaminated groundwater undergoing corrective action years after the source of contamination has been removed, and the soil cleaned up to unrestricted use levels.

To ensure that a range of appropriate cleanup and land use options are available to the facility owner or operator, EPA believes that the agency should consider, when appropriate, subdividing a particular facility for purposes of corrective action. In these situations, the Agency might, for example, select a cleanup approach based on unrestricted use at parts of the facility, while cleanup at other parts of the facility may be based on the restricted use assumptions and rely on institutional and/or engineering controls to maintain the protectiveness of the corrective action. Alternatively, the Agency may select a cleanup approach based on unrestricted use for the entire facility, with some parcels requiring a longer time period to achieve the same cleanup goals.

Under this approach, a Corrective Action Complete without Controls determination could be made for a portion of a facility when it is returned to unrestricted use. A Corrective Action Complete without Controls or a Corrective Action Complete with Controls determination, as appropriate, could be made for remaining portions of the facility when the cleanup goals are achieved, and any necessary controls then would be implemented under an appropriate mechanism.

In some situations, following a Corrective Action Complete without Controls determination for a portion of a facility, the owner will sell the portion that no longer is subject to corrective action. In these situations, the regulator making the determination should consider the long-term plan for the facility, and the effect of the Corrective

[13] *See* (61 FR 19432, at 19432, at 19453, May 1, 19960, and (55 FR 30798, at 30837, July 27, 1990) for guidance regrading selection, implementation, and completion of remedy.

[14] The September, 2000 Fact Sheet on institutional controls discusses that, under RCRA, institutional controls typically are imposed through permit conditions, or through orders issued under section 3008(h) or 7003. The Fact Sheet cautions the regulator that those mechanisms might have shortcomings, and suggests that the regulator conduct a thorough evaluation to ensure its ability to enforce the institutional control through the permit or order mechanism over the entire duration that the institutional control must remain in place. (*See Institutional Controls: A Site Manager's Guide to Identifying, Evaluating and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups, EPA 540–F–00–005, OSWER 9355.0–74FS–P, September 2000.*)

Action Complete without Controls determination and sale on financial assurance for corrective action. The regulator should take steps to ensure adequate financial assurance is available to address corrective action obligations at the remainder of the facility.

Procedures for Processing Completion Determinations

Completion determinations should be made by the appropriate authority (EPA or the authorized State implementing the corrective action program), and made through appropriate procedures. By following appropriate procedures, the authorized agency can make a sound, well informed completion determination. The appropriate procedures for processing a completion determination will depend on various factors, including the status of the facility (permitted or non-permitted), and on whether the determination applies to part of the facility or to the entire facility. The following section suggests procedures that the Agency believes generally are appropriate for completion determinations.[15]

1. Corrective Action Complete Without Controls Determinations for Entire Facility

The regulations in 40 CFR that govern the RCRA program do not provide explicit procedures for recognizing completion of corrective action activities, so regulators have considerable flexibility in developing procedures for making completion determinations. The regulatory agency implementing the corrective action program in that State (*i.e.*, the authorized State program or, in unauthorized States, EPA) should ensure that a completion determination has been made through appropriate procedures. It is important to provide meaningful opportunities for public participation as part of a completion determination procedure. The Agency believes that the following, generally, are appropriate procedures for making Completion of Corrective Action determinations.[16]

EPA believes that permit modification is an appropriate procedure to reflect the agency's determination that corrective action is complete. In cases where no other permit conditions remain, the permit could be modified not only to reflect the completion determination, but also to change the expiration date of the permit to allow earlier permit expiration (*see* 40 CFR 270.42 (Appendix I(A)(6)).

The current regulations in 40 CFR 270.42 provide procedural requirements for facility requested permit modifications. In most cases, completion of corrective action is likely to be a Class 3 permit modification, and the regulatory agency should follow those procedures (or authorized State equivalent), including the procedures for public involvement. It should be noted that the Agency suggests Class 3 permit modification procedures are generally appropriate for completion determinations. However, Class 3 procedures may not be appropriate in all circumstances, and the regulatory agency should evaluate each situation to determine whether a less extensive procedure would be adequate. For example, where the regulatory agency has made extensive efforts throughout the corrective action process to involve the public and has received little or no interest, and the environmental problems at the facility were limited, more tailored public participation may be appropriate.

At non-permitted facilities where facility-wide corrective action is complete, and all other RCRA obligations at the facility have been satisfied, EPA or the authorized State may acknowledge completion of corrective action by terminating interim status through final administrative disposition of the facility's permit application (*see* 40 CFR 270.73(a)). To do so, the permitting authority at the facility (EPA or the authorized State or both, depending on the authorization status of the State) should process a final decision following the procedures for permit denial in 40 CFR Part 124, or authorized equivalent.[17]

EPA recognizes that referring to this decision as a ''permit denial'' may be confusing to the public and problematic to the facility when the facility is in compliance, is not seeking a permit, and does not have an active permit ''application.'' Therefore, regulatory agencies may choose to use alternate terminology (*e.g.*, a ''no permit necessary determination'' or ''cleanup obligations satisfied'') to refer to this decision, though it is issued through the permit denial process or authorized equivalent. Regardless of the terminology used, the basis for the decision should be stated clearly, generally that: (1) There are no ongoing treatment, storage, or disposal activities that require a permit; (2) all closure and post-closure requirements applicable at the regulated units have been fulfilled; and (3) all corrective action obligations, including implementation of long-term monitoring procedures, have been met.

EPA or the authorized States may develop procedures for recognizing completion of corrective action at non-permitted facilities other than the permit decision process described above. For example, a regulatory agency may have procedures for issuing a notice informing the facility and the public that the facility has met its corrective action obligations, rather than issuing a final permit decision. Although these procedures would not have the effect of terminating interim status, unlike the Part 124 permit denial procedures, EPA believes they can be appropriate for making a completion determination. In general, EPA believes the alternative procedures should provide procedural protections equivalent to, although not necessarily identical to, those required by EPA's 40 CFR Part 124 requirements (or the authorized State equivalent). Owners and operators should be aware that informal communications regarding the current status of cleanup activities at the facility are not the same as the completion determinations described in this guidance.[18]

[15] EPA notes that, whether at a permitted or non-permitted facility and regardless of the completion determination procedure used, if EPA or the authorized State discovers unreported or misrepresented releases subsequent to the completion determination, this would likely be a basis to conclude that additional cleanup is needed. And, of course, if EPA subsequently discovers a situation that may present an imminent and substantial endangerment to human health or the environment, EPA may elect to use its RCRA section 7003 imminent and substantial endangerment authority, or other applicable authorities, to require additional work at the facility.

[16] Of course, if a facility's permit or order provides otherwise, these procedures would not be appropriate at that facility.

[17] Under EPA permit denial procedures in 40 CFR Part 124, EPA must issue, based on the administrative record, a notice of intent to deny the facility permit (*see* 40 CFR 124.6(b) and 124.9). The notice must be publicly distributed, accompanied by a statement of basis or fact sheet, and there must be an opportunity for public comment, including an opportunity for a public hearing, on EPA's proposed permit denial (*see* 40 CFR 124.7, 124.8, 124.10, 124.11, and 124.12). In making a final permit determination, EPA must respond to any public comments (*see* section 124.17). Under 40 CFR 124.19, final decisions are subject to appeal.

[18] An alternative approach would likely be appropriate to process Completion of Corrective Action determinations that apply to less than an entire facility (*see* discussion below). An alternative approach could also be used to process a completion of corrective action determination at a facility with ongoing RCRA activities. For example, a facility may be conducting post-closure care at a regulated unit under an alternate non-permit authority, as allowed under the October 22, 1998 Post-Closure rule (*see* 63 FR 56710), yet may have completed corrective action at its solid waste management units. In this case, interim status generally should not be terminated because all

Continued

2. Corrective Action Complete With Controls Determinations

To process a Corrective Action Complete with Controls determination, regulatory agencies should consider the regulatory status of the facility, among other factors, in determining what procedures are appropriate. For permitted facilities, following the permit modification procedures in 40 CFR 270.42 would be appropriate. For non-permitted facilities, the regulatory agency should generally follow alternate procedures (*e.g.*, issue a notice with an opportunity to comment) that provide procedural protections equivalent to, although not necessarily identical to, those required by Part 124 requirements (or the authorized State equivalent). However, following procedures other than the Part 124 procedures does not terminate interim status even though they may result in a Complete with Controls determination. Interim status should not be terminated at a RCRA facility where corrective action requirements remain. If corrective action was implemented through an order, the regulator should not eliminate the order until the facility meets all corrective action obligations required under the order.

As was discussed above, at facilities (permitted or non-permitted) where a Corrective Action Complete with Controls determination is made, and long-term institutional controls are necessary to continued protection of human health and the environment, the regulator may explore a variety of options including permits, orders, and other enforceable mechanisms to maintain the institutional control where appropriate.

3. Corrective Action Complete Without Controls Determinations for Less Than the Entire Facility

As was discussed above, EPA or the authorized State could make a Corrective Action Complete without Controls determination for a portion of a facility where corrective action obligations remain at the remaining portion. Where the regulatory agency determines that a Corrective Action Complete without Controls decision is appropriate for a portion of the facility, it should process that decision using procedures that will not affect portions of the facility where corrective action requirements remain.

For example, at a permitted facility, the agency might process a Corrective Action Completion determination for a portion of the facility by modifying the permit following the procedures in 40 CFR 270.42. The agency should not eliminate the permit, however, if corrective action responsibilities (and possibly other RCRA responsibilities) remain at the facility.

At non-permitted facilities, the Agency or authorized State might utilize alternate procedures as described above (*e.g.*, issue a notice) to process the Corrective Action Completion determination for a portion of the facility. Those procedures should generally provide procedural protections equivalent to, although not necessarily identical to, those required by Part 124 requirements (or the authorized State equivalent). However, interim status is not terminated by such procedures and generally should not be terminated at a facility where RCRA obligations remain. If the corrective action was implemented through an order, it is important to maintain the order until the facility satisfies all corrective action obligations and ensures that institutional controls will be maintained.

FOR FURTHER INFORMATION CONTACT: For further information on completion of corrective action, please contact Barbara Foster at 703–308–7057 or Peter Neves at 202–564–6072. For information regarding the application of this guidance to a particular facility, please contact your local Regional or State office.

[FR Doc. 03–4380 Filed 2–24–03; 8:45 am]

BILLING CODE 6560–50–P

RCRA obligations have not been met, but it may be appropriate to issue a notice (as described above) recognizing completion of the corrective action obligations to bring finality to that process.

FARM CREDIT ADMINISTRATION

RIN 3052–AC13

Loan Policies and Operations; Loan Syndication Transactions

AGENCY: Farm Credit Administration (FCA).

ACTION: Notice; reopening of comment period.

SUMMARY: We are reopening the comment period on our notice concerning loan syndication transactions by Farm Credit System (System) institutions so all interested parties have more time to respond to our questions.

DATES: Please send your comments to the FCA by April 21, 2003.

ADDRESSES: We encourage you to send comments by electronic mail to *reg–comm@fca.gov* or through the Pending Regulations section of FCA's Web site, *http://www.fca.gov.* You may also send comments to Thomas G. McKenzie, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or by facsimile to (703) 734–5784. You may review copies of all comments we receive at our office in McLean, Virginia.

FOR FURTHER INFORMATION CONTACT: Dennis K. Carpenter, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TTY (703) 883–4434, or Richard A. Katz, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–2020.

SUPPLEMENTARY INFORMATION: On January 17, 2003, we published a notice in the **Federal Register** seeking public comment on the treatment of loan syndication transactions by System banks and associations. The comment period expired on February 18, 2003. *See* 68 FR 2540, January 17, 2003. The Farm Credit Council requested that the FCA provide interested parties an additional 60 days to comment on this issue. In response to this request, we are reopening the comment period until April 21, 2003, so all interested parties have more time to respond to our questions. The FCA supports public involvement and participation in its regulatory and policy process and invites all interested parties to review and provide comments on our notice.

Dated: February 20, 2003.

Jeanette C. Brinkley,

Secretary, Farm Credit Administration Board.

[FR Doc. 03–4412 Filed 2–24–03; 8:45 am]

BILLING CODE 6705–01–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the March 13, 2003 regular meeting of the Farm Credit Administration Board (Board) will not be held. The FCA Board will hold a special meeting at 9 a.m. on Friday, March 28, 2003. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Jeanette C. Brinkley, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: February 20, 2003.

Jeanette C. Brinkley,

Secretary, Farm Credit Administration Board.

[FR Doc. 03–4489 Filed 2–21–03; 10:54 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Revised Sunshine Notice* and Schedule Change: Open Commission Meeting, Thursday, February 20, 2003

Please note that the time for the Federal Communications Commission Open Meeting has been rescheduled from 9:30 a.m. to 11 a.m.

The Federal Communications Commission will hold an Open Meeting on the subject listed below on Thursday, February 20, 2003 which is scheduled to commence at 11 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	Wireline Competition	**Revised Title:* Review of the section 251 Unbundling Obligations of Incumbent Local Exchange Carriers (CC Docket No. 01–338), Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 (CC Docket No. 9698), and Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98–147). *Summary:* The Commission will consider a Report and Order concerning incumbent local exchange carriers' obligations to make elements of their networks available on an unbundled basis.

Additional information concerning this meeting may be obtained from David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY 1–888–835–5322.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International (202) 863–2893; Fax (202) 863–2898; TTY (202) 863–2897. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Qualex International may be reached by e-mail at *Qualexint@aol.com*.

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 993–3100. Audio/Video coverage of the meeting will be broadcast live over the Internet from the FCC's Audio/Video Events Web page at *www.fcc.gov/realaudio*. Audio and video tapes of this meeting can be purchased from CACI Productions, 341 Victory Drive, Herndon, VA 20170, telephone number (703) 834–1470, Ext. 19; fax number (703) 834–0111.

Notice: Due to the elevated homeland security alert announced February 7, 2003, the FCC has taken additional security precautions that will limit visitor access to the FCC headquarters building in Washington, DC. Until further notice, the Maine Avenue lobby is closed. All visitors must enter the building through the 12th Street lobby, and will require an escort at all times in the building.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–4461 Filed 2–21–03; 9:25 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the following information collection systems described below.

Type of Review: Renewal of a currently approved collection.

Title: Certification of Compliance With Mandatory Bars to Employment.

OMB Number: 3064–0121.

Form Number: 2120/16.

Annual Burden:

Estimated annual number of respondents: 248.

Estimated time per response: 10 minutes.

Estimated total annual burden hours: 41.34 hours.

Expiration Date of OMB Clearance: June 30, 2005.

SUPPLEMENTARY INFORMATION: Prior to an offer of employment, job applicants to the FDIC must sign a certification that they have not been convicted of a felony or been in other circumstances that prohibit persons from becoming employed by or providing services to the FDIC.

OMB Reviewer: Joseph F. Lackey, Jr. (202) 395–4741, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

FDIC Contact: Tamara R. Manly, (202) 898–7453, Legal Division, Room MB–3109, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on these collections of information are welcome and should be submitted on or before March 27, 2003, to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collections of information, may be obtained by calling or writing the FDIC contact listed above.

Dated: February 20, 2003.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 03–4413 Filed 2–24–03; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors.

Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 12, 2003.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. C & J Bennett Family Limited Partnership, Hardinsburg, Kentucky; David and Marie Bennett, Leitchfield, Kentucky; Mitchell, Pam and Mason Bennett, Hardinsburg, Kentucky; Rebecca Bennett, Scottsville, Kentucky; Sarah Bennett, Gardner, Colorado; Annette Martin, Hardinsburg, Kentucky; Farmers Bancshares Employees Stock Option Plan, Hardinsburg, Kentucky; and Charles D. and Jeanette Bennett, Hardinsburg, Kentucky; to acquire and/or retain shares of Farmers Bancshares, Inc., Hardinsburg, Kentucky, and thereby control shares of The Farmers Bank, Hardinsburg, Kentucky and Leitchfield Deposit Bank & Trust Company, Leitchfield, Kentucky.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Stanton Boyce Brown, Waco, Texas; to acquire voting shares of Extraco Corporation, Waco, Texas, and thereby indirectly acquire Extraco Bank, National Association, Temple, Texas.

Board of Governors of the Federal Reserve System, February 20, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–4419 Filed 2–24–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 21, 2003.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Old Florida Bankshares, Inc., Fort Myers, Florida; to merge with Marine Bancshares, Inc., Naples, Florida, and thereby indirectly acquire Marine National Bank, Naples, Florida.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Scott County Bancorp, Inc., Winchester, Illinois; to acquire 42.19 percent of the voting shares of JW Bancorp, Inc., Winchester, Illinois, and thereby indirectly acquire John Warner Financial Corporation, and The John Warner Bank, both of Clinton, Illinois.

Board of Governors of the Federal Reserve System, February 20, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–4420 Filed 2–24–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 11, 2003.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Bay View Capital Corporation, San Mateo, California, to acquire 100 percent of Bay View Acceptance Corporation, San Mateo, California, and thereby engage in extending credit and servicing loans, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, February 19, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–4389 Filed 2–24–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice.

SUMMARY: The FTC is seeking Office of Management and Budget (OMB) clearance under the Paperwork Reduction Act (PRA) for a consumer survey to gather information on the incidence of consumer fraud in the population and enable it to better serve people who experience it. The FTC seeks public comment regarding this notice, which is the second of two notices required by the PRA for information collection requests of this nature.

DATES: Comments on the proposed information requests must be submitted on or before March 27, 2003.

ADDRESSES: Send written comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, DC 20503, ATTN.: Desk Officer for the Federal Trade Commission (comments in electronic form should be sent to *oira_docket@omb.eop.gov*), and to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580 (comments in electronic form should be sent to *consumersurvey@ftc.gov,* as prescribed below). The submissions should include the submitter's name, address, telephone number and, if available, FAX number and e-mail address. All submissions should be captioned ''Consumer Fraud Survey—FTC File No. P014412.''

FOR FURTHER INFORMATION CONTACT: Requests for additional information, such as requests for the Supporting Statement, related attachments, or copies of the proposed collection of information, should be addressed to Nat Wood, Assistant Director, Office of Consumer and Business Education, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Telephone: (202) 326–3407, e-mail: *consumersurvey@ftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. On December 4, 2002, the FTC published a **Federal Register** notice with a 60-day comment period seeking comments from the public concerning the collection of information from consumers. See 67 FR 72186. No comments were received. Pursuant to the OMB regulations that implement the PRA (5 CFR part 1320), the FTC is providing this second opportunity for public comment while seeking OMB approval to conduct the collection of information presented by the proposed survey.

If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *consumersurvey@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR section 4.9(b)(6)(ii).

Description of the Collection of Information and Proposed Use

The FTC proposes to survey approximately 3,000 consumers in order to gather specific information on the incidence of consumer fraud in the general population. This information will be collected on a voluntary basis, and the identities of the consumers will remain confidential. The FTC has contracted with a consumer research firm to identify consumers and conduct the survey. The results will: (1) Assist the FTC in determining whether the type and frequency of consumer fraud complaints collected in its Consumer Sentinel database representatively reflect the incidence of consumer fraud in the general population; and (2) inform the FTC about how best to combat consumer fraud.

Estimated Hours Burden

The FTC will pretest the survey on approximately 100 respondents to ensure that all questions are easily understood. This pretest will take approximately 15 minutes per person and 25 hours as a whole (100 respondents × 15 minutes each). Answering the consumer survey will require approximately 15 minutes pre respondent and 750 hours as a whole (3,000 respondents × 15 minutes each). Thus, cumulative total hours attributable to the consumer research will approximate 775 hours.

Estimated Cost Burden

The cost per respondent should be negligible. Participation is voluntary and will not require start-up, capital, or labor expenditures by respondents.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03–4397 Filed 2–24–03; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 021 0100]

Dainippon Ink and Chemicals, Incorporated; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis To Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 3, 2003.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed below.

FOR FURTHER INFORMATION CONTACT: Katherine Havely, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2093.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis To Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for January 31, 2003), on the World Wide Web, at *http://www.ftc.gov/os/2003/01/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with

§ 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from Dainippon Ink and Chemicals, Incorporated (''Dainippon''), which is designed to remedy the anticompetitive effects resulting from Dainippon's acquisition of Bayer Corporation's (''Bayer'') high performance pigments business. Under the terms of the Consent Agreement, Dainippon will be required to divest its perylene business to Ciba Specialty Chemicals Inc. and Ciba Specialty Chemicals Corporation (collectively, ''Ciba'').

The proposed Consent Agreement has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the proposed Consent Agreement or make it final.

Pursuant to an asset purchase agreement dated February 15, 2002, Dainippon, through its wholly-owned U.S. subsidiary, Sun Chemical Corporation (''Sun Chemical''), agreed to acquire Bayer's high performance pigments business for approximately $57.8 million (the ''Proposed Acquisition''). The Commission's Complaint alleges that the Proposed Acquisition, if consummated, would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, in the worldwide market for the research, development, manufacture, and sale of perylenes.

The Parties

Dainippon is a diversified global chemicals company based in Tokyo, Japan. Primarily through Sun Chemical, Dainippon manufactures and sells a full range of organic pigments, including perylenes. Sun Chemical is the third largest supplier of perylenes in the world. Sun Chemical's perylenes are produced through two third-party, ''toll'' manufacturers, Lobeco Products and Forth Technologies, which are located in South Carolina and Kentucky, respectively. Sun Chemical provides these toll manufacturers the intellectual property, manufacturing know-how, and raw materials, as well as some of the equipment, to produce perylenes.

Bayer is a subsidiary of Bayer AG, a diversified, international healthcare and chemicals group based in Leverkusen, Germany. Headquartered in Pittsburgh, Pennsylvania, Bayer engages in the healthcare, life sciences, polymers, and chemicals industries. Bayer manufactures organic pigments at its facilities located in Bushy Park, South Carolina, and Lerma, Mexico. Bayer primarily participates in the high performance pigments segment and is considered a leader in the production of perylenes, which it manufactures at the Bushy Park plant. Bayer is currently the second largest supplier of perylenes in the world.

The Perylene Market

Pigments are small particles that are used to impart color to a wide variety of products, including inks, coatings (such as automotive coatings and housepaints), plastics, and fibers. Broadly speaking, there are two main categories of pigments: organic and inorganic. Organic pigments are chemically synthesized, carbon-based compounds that generate a broad spectral range of brilliant, transparent, or opaque color shades. Inorganic pigments, on the other hand, are generally based on metal oxides and tend to impart a narrower range of dull, opaque earth tones. Because of these differences, organic and inorganic pigments often are blended together to achieve a particular color shade and effect, and thus are used as complements rather than substitutes.

Organic pigments can be further categorized into two main groups: Commodity (or classical) organic pigments and ''high performance'' pigments. High performance pigments offer far superior durability and light-fastness compared to commodity organic pigments. Accordingly, high performance pigments are necessary to prevent color fading in products that endure prolonged exposure to sunlight and weather, such as automotive coatings. Commodity organic pigments, because of their lower quality, cannot substitute for high performance pigments in such demanding applications. High performance pigments are significantly more expensive than commodity organic pigments.

Perylenes are a class of high performance pigments that impart unique shades of red, such as maroon and violet, and offer a particularly high degree of transparency. Perylenes are primarily used to impart color to automotive coatings, and are used to a lesser degree in plastics and carpet fibers. Because no other pigment or colorant offers the same combination of unique color shades and high performance characteristics that perylenes provide, perylene customers could not achieve the same colors and performance levels in their products without perylenes. Thus, there are no substitute products that perylene customers could turn to, even if faced with a significant price increase for perylenes.

As Sun Chemical and Bayer are two of only four viable suppliers of perylenes in the world, the perylene market is already highly concentrated, as measured by the Herfindahl-Hirschman Index (''HHI''). The Proposed Acquisition would significantly increase concentration in the market to an HHI level of 4,856, an increase of 680 points. The Proposed Acquisition would also eliminate the vigorous head-to-head competition between Sun Chemical and Bayer that has benefitted perylene customers in the past. By eliminating competition between Sun Chemical and Bayer in the market for perylenes, the Proposed Acquisition would allow the combined firm to unilaterally exercise market power, as well as increase the likelihood of coordinated interaction among the remaining perylene suppliers. As a result, the Proposed Acquisition would increase the likelihood that purchasers of perylenes would be forced to pay higher prices for perylenes and that innovation and service in this market would decrease.

Entry into the perylene market is not likely and would not be timely to deter or counteract the anticompetitive effects that would result from the Proposed Acquisition. It would take a new entrant well over two years to complete all of the requisite steps for entry, including: Researching and developing perylene technology; building a perylene manufacturing facility; perfecting the art of manufacturing perylenes; and passing the rigorous battery of tests required for customer approval. Additionally, new entry into the perylene market is unlikely to occur because the capital investment required to become a viable perylene supplier is high relative to the limited sales opportunities available to new entrants.

The Consent Agreement

The Consent Agreement requires Dainippon to divest Sun Chemical's perylene business to Ciba, a diversified specialty chemicals company that is a leading supplier of pigments (but does not manufacture or sell perylenes). This divestiture would fully remedy the

Proposed Acquisition's anticompetitive effects in the perylene market for several reasons. First, Ciba is the best-positioned acquirer of Sun Chemical's perylene business. Second, under the terms of the Consent Agreement, Ciba will receive everything it needs to step into the shoes of Sun Chemical in the perylene market. Finally, the Consent Agreement includes certain measures that will help ensure an effective transition of the Sun Chemical perylene assets to Ciba.

Ciba is the best-positioned acquirer of Sun Chemical's perylene business for several reasons. First, Ciba is committed to the high performance pigments market. Ciba is already a leading supplier of other high performance pigments, such as quinacridones and diketo pyrollo pyrrols. As a result, Ciba has the ability and incentive to take over and further develop Sun Chemical's perylene business, because the divestiture will enable Ciba to offer a wide range of high performance pigments. Second, because Ciba already has a reputation for quality and consistency with the customers of high performance pigments (such as automotive coatings manufacturers), it will be relatively easy for Ciba to convince these customers that it can be a viable supplier of perylenes. Finally, customers that have expressed concern about the Proposed Acquisition's likely harmful effects on the perylene market feel that a divestiture of Sun Chemical's perylene business to Ciba would resolve their concern.

Ciba will receive all of the assets it needs to replace the competition offered by Sun Chemical in the perylene market before the Proposed Acquisition. Under the Consent Agreement, Sun Chemical will divest its entire perylene business to Ciba. The divestiture includes: All of Sun Chemical's current perylene products; all perylene research and development; manufacturing technology; scientific know-how; technical assistance and expertise; customer lists; raw material, intermediate, and finished product inventory; and perylene product names, codes, and trade dress. Because Sun Chemical manufactures perylenes through toll manufacturers, no manufacturing equipment or facilities are included in the divestiture. Instead, as required by the Consent Agreement, Ciba has entered into contracts with Sun Chemical's perylene toll manufacturers—Lobeco Products and Forth Technologies—that will become effective upon closing the divestiture.

Additionally, the Consent Agreement includes several measures to ensure an effective transition of the tangible and intangible assets related to the perylene business from Sun Chemical to Ciba. First, Ciba will have the opportunity to hire one or more Sun Chemical employees who have key responsibilities in connection with the company's perylene business. These former Sun Chemical employees will help Ciba not only to understand Sun Chemical's perylene manufacturing, research, and development process, but also to identify any missing or incomplete assets in the divestiture. Second, the Consent Agreement requires Sun Chemical to provide technical assistance to Ciba for a period of one year following the divestiture to help Ciba successfully take over Sun Chemical's perylene product line. Third, under the Consent Agreement, the Commission may appoint an interim monitor to supervise the transfer of assets and assure that Sun Chemical provides adequate technical assistance to Ciba.

Finally, in the event that the divestiture of Sun Chemical's perylene business to Ciba fails, the Consent Agreement includes certain contingent provisions to remedy the Proposed Acquisition's anticompetitive effects. If, before the Commission finalizes the Consent Order in this matter, the Commission notifies Dainippon that Ciba is not an acceptable acquirer of Sun Chemical's perylene business or that the manner in which the divestiture to Ciba was accomplished was not acceptable, the Consent Agreement requires Dainippon to rescind the transaction with Ciba and divest Sun Chemical's perylene business to an acquirer that receives the prior approval of the Commission within ninety (90) days of the rescission. Additionally, if Dainippon does not divest Sun Chemical's perylene business to either Ciba or a Commission-approved acquirer within the time required by the Consent Agreement, the Commission may appoint a trustee to divest Sun Chemical's perylene business in a manner that satisfies the requirements of the Consent Agreement.

The purpose of this analysis is to facilitate public comment on the Consent Order, and it is not intended to constitute an official interpretation of the Consent Order or to modify its terms in any way.

Quinacridones

Sun Chemical and Bayer also manufacture quinacridones, another class of red-shade high performance organic pigments. Unlike for perylenes, however, the Proposed Acquisition would not increase the likelihood that customers would pay higher prices for quinacridones, or that service and innovation for these products would decrease. Two companies—Ciba and Clariant—are by far the largest manufacturers of quinacridones in the world, and they are the top two choices for many customers. With respect to quinacridones, Sun Chemical and Bayer are each less than half the size of Ciba or Clariant. Unlike for perylenes, where Sun Chemical and Bayer often vigorously compete head-to-head for business, the parties are less likely to face each other in head-to-head competition for quinacridone business. Many customers believe that, after the Proposed Acquisition, the combined Sun Chemical/Bayer will become a stronger quinacridone competitor, able to compete more effectively against Ciba and Clariant. In addition, several new quinacridone suppliers recently have entered the market, and those suppliers will provide increasing competition.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03–4396 Filed 2–24–03; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Meeting of the President's Council on Bioethics on March 6–7, 2003

AGENCY: The President's Council on Bioethics, HHS.

ACTION: Notice.

SUMMARY: The President's Council on Bioethics will hold its 10th meeting, at which it will discuss the regulation of biotechnology, with presentations on professional self-regulation of the assisted reproduction industry by: Dr. Sandra A. Carson, president of the American Society for Reproductive Medicine (ASRM) and Dr. George J. Annas, Boston University School of Public Health. The Council will also hear from Dr. Steven Pinker, Massachusetts Institute of Technology (MIT), on human nature, and Dr. Steven E. Hyman, Harvard University, on pediatric psychopharmacology. Subjects discussed at past Council meetings (and potentially touched on at this meeting) include: Human cloning; embryonic stem cell research; the patentability of human organisms; preimplantation genetic diagnosis and screening (PGD); sex selection techniques; inheritable genetic modification (IGM); international models of biotech regulation; organ procurement for

transplantation; extra-therapeutic powers to enhance or improve human mood, memory, and muscles; and research to extend the human lifespan.

DATES: The meeting will take place Thursday, March 6, 2003, from 9 a.m. to 5:15 p.m. e.t.; and Friday, March 7, 2003, from 8:30 a.m. to 1 p.m. e.t.

ADDRESSES: Sheraton National Hotel, 900 S. Orme Street, Arlington, VA 22204.

Public Comments: The meeting agenda will be posted at *http://www.bioethics.gov.* Members of the public may comment, either in person or in writing. A period of time will be set aside during the meeting to receive comments from the public. It begins at noon on Friday, March 7, 2003. Comments will be limited to no more than five minutes per speaker or organization. Please inform Ms. Diane Gianelli, Director of Communications, in advance of your intention to make a public statement, giving her your name, affiliation, and a brief description of the topic or nature of your comments. To submit a written statement, mail or e-mail it to Ms. Gianelli at one of the addresses given below.

FOR FURTHER INFORMATION CONTACT: Ms. Diane Gianelli, Director of Communications, The President's Council on Bioethics, Suite 600, 1801 Pennsylvania Avenue, Washington, DC 20006. Telephone: 202/296–4669. E-mail: *info@bioethics.gov.* Web site: *http://www.bioethics.gov.*

Dated: February 13, 2003.

Dean Clancy,

Executive Director, The President's Council on Bioethics.

[FR Doc. 03–4355 Filed 2–24–03; 8:45 am]

BILLING CODE 4150–24–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Guide to Community Preventive Services (GCPS) Task Force: Meeting

Name: Task Force on Community Preventive Services.

Times and Dates: 8:30 a.m.–5:15 p.m., February 26, 2003. 8 a.m.–1:45 p.m., February 27, 2003.

Place: The Sheraton Colony Square, 188 14th Street, NE., Atlanta, Georgia 30361, telephone (404) 892–6000.

Status: Open to the public, limited only by the space available.

Purpose: The mission of the Task Force is to develop and publish a Guide to Community Preventive Services, which is based on the best available scientific evidence and current expertise regarding essential public health and what works in the delivery of those services.

Matters to be Discussed: Agenda items include: Briefings on administrative information, methods and intervention reviews; a strategic planning session and sessions to approve recommendations for the following interventions:

Client Reminders for Colorectal Cancer Screening—Small Media Education for Cancer Screening—Collaborative Care for Improving Treatment for Depression—Treating Juveniles as Adults in the Criminal Justice System.

Agenda items are subject to change as priorities dictate.

Contact Person for Additional Information: Stephanie Zaza, M.D., Chief, Community Guide Branch, Division of Prevention Research and Analytic Methods, Epidemiology Program Office, CDC, 4770 Buford Highway, M/S K–73, Atlanta, Georgia, telephone 770/488–8189.

Persons interested in reserving a space for this meeting should call 770/488–8189 by close of business on February 24, 2003.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: February 19, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–4345 Filed 2–24–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifiers: CMS–43]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Application for Health Insurance Benefits Under Medicare for Individuals with Chronic Renal Disease and Supporting Regulations in 42 CFR 406.7 and .13; *Form No.:* 0938–0080; *Use:* The CMS–43 is used to establish entitlement to Medicare by individuals with End Stage Renal Disease; *Frequency:* One-time only; *Affected Public:* Individuals or households, Federal Government, State, Local, or Tribal Gov.; *Number of Respondents:* 60,000; *Total Annual Responses:* 60,000; *Total Annual Hours:* 26,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://cms.hhs.gov/regulations/pra/default.asp*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances, Attention: Dawn Willinghan, Room: C5–14–03, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 13, 2003.

John P. Burke, III,

CMS Reports Clearance Officer, Office of Strategic Operations and Strategic Affairs, Division of Regulations Development and Issuances.

[FR Doc. 03–4339 Filed 2–24–03; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–822, CMS–209 and CMS–R–305]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Federal Health Care Programs Provider/Supplier Enrollment Application; *Form No.:* CMS–855 (OMB# 0938–0685); *Use:* This information is needed to enroll providers and suppliers into the Medicare program by identifying them, pricing and paying their claims, and verifying their qualifications and eligibility to participate in Medicare; *Frequency:* Initial enrollment/recertification and Every three years; *Affected Public:* Business or other for-profit, individuals or households, and not-for-profit institutions; *Number of Respondents:* 274,000; *Total Annual Responses:* 274,000; *Total Annual Hours:* 642,000.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Laboratory Personnel Report Clinical Laboratory Improvement Amendments (CLIA) and Supporting Regulations in 42 CFR 493.1—493.2001; *Form No.:* HCFA–0209 (OMB# 0938–0151); *Use:* CLIA requires the Department of Health and Human Services (DHHS) to establish certification requirements for any laboratory that performs tests on human specimens, and to certify through the issuance of a certificate that those laboratories meet the requirements established by DHHS. The information collected on this survey form is used in the administrative pursuit of the Congressionally-mandated program with regard to regulation of laboratories participating in CLIA. Information on personnel qualifications of all technical personnel is needed to ensure the sample is representative of all laboratories; *Frequency:* Biennially; *Affected Public:* Business or other for profit, not for profit institutions, Federal Government, and State, Local or Tribal Government; *Number of Respondents:* 22,500; *Total Annual Responses:* 11,250; *Total Annual Hours:* 5,625.

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* External Quality Review of Medicaid MCOs and Supporting Regulations in 42 CFR 438.352,438.360, 438.362, and 438.36; *Form No.:* CMS–R–305 (OMB# 0938–0786); *Use:* The results of Medicare reviews, Medicare accreditation surveys, and Medicaid external quality reviews will be used by States in assessing the quality of care provided to Medicaid beneficiaries provided by managed care organizations or to provide information on the quality of the care provided to the general public upon request. Three of the protocol activities are mandatory and six are optional; *Frequency:* Annually; *Affected Public:* Business or other for-profit, State, local or tribal govt.; *Number of Respondents:* 500; *Total Annual Responses:* 14,226; *Total Annual Hours:* 648,877.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://cms.hhs.gov/regulations/pra/default.asp*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: February 13, 2003.

John P. Burke, III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances.

[FR Doc. 03–4340 Filed 2–24–03; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Arthritis Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Arthritis Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 4, 2003, from 9 a.m. to 4 p.m. and on March 5, 2003, from 8 a.m. to 5 p.m.

Location: Holiday Inn, Kennedy Ballroom, 8777 Georgia Ave., Silver Spring, MD.

Contact Person: Kathleen Reedy or LaNise Giles, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, fax: 301–827-6776, e-mail: *reedyk@cder.fda.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12532. Please call the Information Line for up-to-date information on this meeting.

Agenda: On March 4, 2003, the committee will hear a safety update on tnf alpha inhibitors; Humira (adalimumab), Abbott Laboratories; REMICADE (infliximad), Centocor; and ENBREL (etanercept), Immunex. On March 5, 2003, the committee will discuss the approved product new drug application (NDA) 20–905, ARAVA, (leflunomide), Aventis Pharmaceuticals, Inc., clinical data regarding efficacy for improvement in physical function in rheumatoid arthritis, as well as a safety update. The background material for this meeting will be posted on the Internet when available or 1-working

day before the meeting at: *www.fda.gov/ohrms/dockets/ac/acmenu.htm.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by February 25, 2003. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on March 4, 2003, and between approximately 8:30 a.m. and 9 a.m. and 11:30 a.m. and 12 noon on March 5, 2003. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before February 25, 2003, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact LaNise Giles at 301–827–7001 at least 7 days in advance of the meeting.

FDA regrets that it was unable to publish this notice 15 days prior to the March 4, 2003, Arthritis Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Arthritis Advisory Committee were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 13, 2003.

Linda Arey Skladany,

Associate Commissioner for External Affairs.

[FR Doc. 03–4350 Filed 2–24–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03D–0061]

Draft Guidance for Industry on Comparability Protocols—Chemistry, Manufacturing, and Controls Information; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Comparability Protocols—Chemistry, Manufacturing, and Controls Information.'' This draft document provides recommendations to applicants on preparing and using comparability protocols for postapproval changes in chemistry, manufacturing, and controls (CMC) information.

DATES: Submit written or electronic comments on the draft guidance by June 25, 2003. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Office of Training and Communications, Division of Communications Management, Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, 5600 Fishers Lane, Rockville, MD 20857; or to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448 or to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. Submit phone requests to 800–835–4709 or 301–827–1800. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Stephen Moore, Center for Drug Evaluation and Research (HFD–510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6430, or Christopher Joneckis, Center for Biologics Evaluation and Research (HFM–1), Food and Drug Administration, 8800 Rockville Pike, Rockville, MD 20892, 301–435–5681, or Dennis Bensley, Center for Veterinary Medicine (HFV–143), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6956.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Comparability Protocols—Chemistry, Manufacturing, and Controls Information.'' This draft guidance applies to comparability protocols that would be submitted in new drug applications (NDAs), abbreviated new drug applications (ANDAs), new animal drug applications (NADAs), abbreviated new animal drug applications (ANADAs), or supplements to these applications, except for applications for protein products. Well-characterized synthetic peptides submitted in these applications are included within the scope of this guidance. This draft guidance also applies to comparability protocols submitted in drug master files (DMFs) and veterinary master files (VMFs) that are referenced in these applications. A separate guidance will address comparability protocols for proteins as well as for peptide products outside the scope of this guidance that are submitted in these applications. This separate guidance will also address comparability protocols for products submitted in biologics license applications (BLAs).

This draft guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information in this guidance was approved under OMB control numbers 0910–0001 and 0910–0032.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance represents the agency's current thinking on ''Comparability Protocols; Chemistry, Manufacturing, and Controls Information''. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (see

ADDRESSES) written or electronic comments on the draft guidance. Submit a single copy of electronic comments to http://www.fda.gov/dockets/ecomments or two hard copies of any written comments, except that individuals may submit one hard copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at http://www.fda.gov/cder/guidance/index.htm, http://www.fda.gov/cber/guidelines.htm, or http://www.fda.gov/cvm/guidance/published.htm.

Dated: February 19, 2003.

William K. Hubbard,

Associate Commissioner for Policy and Planning.

[FR Doc. 03–4311 Filed 2–20–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drugs Administration

Medical Device User Fee Payment Procedures

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the payment 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), authorizes FDA to collect user fees for certain medical device applications. The FY 2003 fee rates were published in the **Federal Register** of November 21, 2002 (67 FR 70228 at 70229, as amended by the **Federal Registers** of January 10, 2003, and January 22, 2003 (68 FR 1469 and 68 FR 3033)); however, FDA could not begin to collect these fees until enabling appropriations were enacted. Those enabling appropriations were enacted on February 20, 2003, so FDA is now able to collect Medical Device User Fees for FY 2003. Accordingly, FDA will issue invoices for all fees payable for applications submitted between October 1, 2002, and March 31, 2003. Those invoices will be due and payable within 30 days of issuance. For all applications submitted on or after April 1, 2003, fees must be paid at the time that applications are submitted to FDA. This notice provides payment procedures for those submitting medical device applications that may be subject to user fees.

FOR FURTHER INFORMATION CONTACT: For further information on MDUFMA visit the FDA Web site *http://www.fda.gov/oc/mdufma* or contact James G. Norman, Office of Systems and Management (HFZ–2), Food and Drug Administration, Center for Devices and Radiological Health (CDRH), 9200 Corporate Blvd., Rockville, MD 20850, 301–827–6829.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 737 and 738 of the act (21 U.S.C. 379i and j) establish fees for certain medical device applications and supplements. When certain conditions are met, FDA may waive or reduce fees (21 U.S.C. 379j(d) and (e)).

MDUFMA establishes aggregate revenue amounts for application fee revenues each year for FY 2003 through FY 2007. Revenue amounts established for years after FY 2003 are subject to adjustment for inflation, workload, and revenue shortfalls from previous years. FDA will set and publish fees each year so that total revenues will approximate the levels established in the statute, after those amounts have been adjusted for inflation, workload, and, if required, revenue shortfalls from previous years.

II. What Are the Fees for Applications Submitted in FY 2003?

Table 1 of this document provides fee rates for applications submitted on October 1, 2002, and remaining in effect through September 30, 2003, as previously published (67 FR 70228 at 70229, as amended by 68 FR 1469 and 68 FR 3033).

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	FY 2003 Full Fee	FY 2003 Small Business Fee
Premarket Approval (PMA), Product Development Protocol (PDP), Biologic License Application (BLA) (submitted under section 515(c) or (f) of the act (21 U.S.C. 360e(c) or (f)) or section 351 of the Public Health Service Act (the PHS Act) , respectively)	100	$154,000	$58,520
Premarket Report (PMR)(submitted under section 515(c)(2) of the act)	100	$154,000	$58,520
Panel Track Supplement (submitted under section 515 of the act to an approved PMA, PDP, 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 (submitted under section 351 of the PHS Act to an approved BLA)	100	$154,000	$58,520
180-Day Supplement (submitted under section 515 of the act to an approved PMA, PDP 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

TABLE 1—FEE TYPES, PERCENT OF PMA FEE, AND FY 2003 FEE RATES—Continued

Application Fee Type	Full Fee Amount as a Percent of PMA Fee	FY 2003 Full Fee	FY 2003 Small Business Fee
Real Time Supplement (submitted under section 515 of the act 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 device design, 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 or an approved PDP)	7.2	$11,088	$4,213
Premarket Notification (submitted under section 510(k) of the act)	1.42	$2,187	$2,187[1]

[1] A small business will pay the full (standard) fee of $2,187 for a premarket notification submitted to FDA during FY 2003. A small business fee, set at 80 percent of the standard 510K fee, will be available beginning FY 2004.

III. Are All Device Applications and Submissions Subject to Fees?

Premarket applications and submissions not listed in table I are not subject to a MDUFMA user fee. The following are examples of submissions that do not require a MDUFMA fee:

• Any type of investigational device exemption submission made under section 520(g) of the act (21 U.S.C. 360j(g)).

• A request made under section 513(f)(2) of the act (21 U.S.C. 360c(f)(2)) for an evaluation of automatic class III designation (also known as a de novo or risk-based classification).

• A modification to the manufacturing procedures or method of manufacturing submitted as a 30-day notice or as a 135-day supplement if notified by FDA that such a supplement is needed.

• An ''express PMA supplement'' for a manufacturing facility site change.

• Annual (or other periodic) reports required for an approved PMA.

In addition to the types of submissions described above that are not subject to MDUFMA fees, certain applications are exempt from fees. Exempted applications include:

• Applications submitted under section 520(m) of the act that qualify for a humanitarian device exemption (21 U.S.C. 379j(a)(1)(B)(i)).

• Applications submitted under section 351 of the Public Health Service Act for a product licensed for further manufacturing use only (21 U.S.C. 379j(a)(1)(B)(ii)).

• Applications submitted by a State or U.S. Federal Government entity for a device that is not to be distributed commercially (21 U.S.C. 379j(a)(1)(B)(iii)).

• Premarket notification submissions reviewed by an accredited third party (21 U.S.C. 379j(a)(1)(B)(iv)).

• Applications or supplements whose sole purpose is to support conditions of use in a pediatric population (21 U.S.C. 379j(a)(1)(B)(v)).

• First time PMA/PDP/BLA submissions from small businesses as discussed in section V of this document.

If you are unsure of whether a planned submission will be subject to a MDUFMA user fee, please contact CDRH's Division of Small Manufacturers, International and Consumer Assistance, on 1–800–638–2041 or 301–443–6597, for assistance.

IV. Where May I Find Guidance on the Type of Fees Applicable to My Application?

For guidance on which type of fee applies to your application, please see the document entitled ''Assessing User Fees: PMA Supplement Definitions, Modular PMA Fees, BLA and Efficacy Supplement Definitions, Bundling Multiple Devices in a Single Application, and Fees for Combination Products: Guidance for Industry and FDA.'' You may find a link to this document on FDA's Web site at: http://www.fda.gov/oc/mdufma. At that Web site, under the heading ''Guidance Documents'' click on the link ''Assessing User Fees—PMA Supplements, Modular PMAs, BLAs and Efficacy Supplements, Bundling, and Combination Products.'' This guidance will help you determine fees for PMA supplements (panel-track, 180-day, and real-time), modular PMAs, as well as combination products. It also provides information on when bundling multiple devices in a single application would be appropriate.

V. How Does a Firm Qualify as a Small Business for Purposes of MDUFMA Fees?

Firms with annual gross sales and revenues of $30 million or less, including gross sales and revenues of all affiliates, partners, and parent firms, may qualify for a fee waiver for their first PMA, and for lower rates for subsequent PMAs, premarket reports, and supplements. Such firms may also qualify for lower rates for premarket notification submissions in FY 2004 and subsequent years.

To qualify, you are required to submit the following:

(1) Certified copies of your Federal Income Tax Return for the most recent taxable year, including certified copies of the income tax returns of your affiliates, partners, and parent firms.

(2) A certified list of all parents, partners, and affiliate firms since October 1, 2002.

You can find information for determining if an applicant qualifies for a small business first-time PMA waiver and lower rates for subsequent applications on the FDA Web site at http://www.fda.gov/oc/mdufma. At that Web site, under the heading ''Guidance Documents,'' click on the link ''Qualifying as a Small Business.'' This Web site provides detailed instructions and the address for mailing documentation to support qualification as a small business under MDUFMA.

VI. When Do I Submit a Fee for an Application Submitted On or After October 1, 2002, and On or Before the Date of Publication of This Notice?

You must pay a fee for any medical device application subject to a fee that you submitted on or after October 1, 2002 (21 U.S.C. 379j(a)(1)(A)). (Section III of this document addresses applications exempted from fees and procedures related to them.) FDA will issue invoices to all applicants who submitted medical device applications on or after October 1, 2002, and through the date of this notice. FDA will issue those invoices during March and April 2003, and payment will be due within 30 days of issuance date. FDA will include detailed payment instructions with the invoices. Please include the invoice numbers on all payments submitted in response to these invoices.

VII. When Do I Submit the Fee for Applications Submitted On or After the Date of Publication of This Notice?

A. Payment Options for Firms Submitting Medical Device Applications between Today and March 31, 2003.

If you submit a medical device application subject to fees on or after the date of publication of this notice, and before April 1, 2003, you may either:

(1) Submit the application without first submitting payment, and pay the fee when an invoice is received; or

(2) Pay the fee at the time the application is submitted.

B. Payment Requirement for Firms Submitting Medical Device Applications On or After April 1, 2003.

If you submit a medical device application subject to fees on or after April 1, 2003, you must pay the fee for the application at or before the time the application is submitted. If you have not paid all fees owed, FDA will consider the application incomplete and will not accept it for filing (21 U.S.C. 379j(f)).

VIII. What Are the Procedures for Paying Application Fees?

FDA requests that you adhere to the following steps before submitting a medical device application subject to a fee. Please pay close attention to these procedures to ensure that FDA associates the fee with the correct application. (Note: In no case should the check for the fee be submitted to FDA with the application.)

A. Step One—Secure a Payment Identification Number and Medical Device User Fee Cover Sheet From FDA Before Submitting Either the Application or the Payment.

Log onto the MDUFMA Web site at http://www.fda.gov/oc/mdufma, and under the ''Forms'' heading, click on the link ''User Fee Cover Sheet.'' Complete the Medical Device User Fee Cover Sheet and print a copy. Note the unique Payment Identification Number located in the upper right-hand corner of the printed cover sheet.

B. Step Two—Fax a Copy of the Printed Cover Sheet With the Payment Identification Number to FDA's Office of Financial Management.

The FDA facsimile machine phone number to receive this completed Medical Device User Fee Cover Sheet is 301–827–9213. FDA will then enter the information into its accounting system, in order to associate payments with submitters. (Note: Later this year, after the Web site is upgraded, you will be able to transmit the completed form electronically and you will not need to fax a copy to FDA.)

C. Step Three—Mail a Copy of the Completed Medical Device User Fee Cover Sheet and the Payment for Your Application to the St. Louis Address Specified in Item 3 as Follows:

1. Make the payment in U.S. currency by check, bank draft, or U.S. postal money order payable to FDA. (The tax identification number of FDA is 53–0196965, should your accounting department need this information.)

2. Please note on your payment your application's unique Payment Identification Number from the upper right-hand corner of your printed Medical Device User Fee Cover Sheet.

3. Mail the payment and a copy of the completed Medical Device User Fee Cover Sheet to: Food and Drug Administration, P.O. Box 956733, St. Louis, MO 63195–6733.

If you prefer to send a check by a courier, the courier may deliver the checks to: US Bank, Attn: Government Lockbox, SL–MOC1GL, 1005 Convention Plaza, St. Louis, MO 63101. (Note: This address is for courier delivery only. Contact the US Bank at 314–418–4821 if you have any questions concerning courier delivery.)

It is helpful if the fee arrives at the bank at least 1 day before the application arrives at FDA. FDA records as the application receipt date the latter of the following:

a. The date the application was received by FDA; or

b. The date US Bank notifies FDA that payment has been received. US Bank is required to notify FDA within 1-working day, using the Payment Identification Number described in section VIII, C.2 of this document.

D. Step Four—Submit Your Application to FDA With a Copy of the Completed Medical Device User Fee Cover Sheet.

Please submit your application and a copy of the completed Medical Device User Fee Cover Sheet to one of the following addresses.

1. Medical device applications should be submitted to: Document Mail Center (HFZ–401), Center for Devices and Radiological Health, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850.

2. Biologic applications should be sent to: Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1428.

Dated: February 13, 2003.

William K. Hubbard,

Associate Commissioner for Policy and Planning.

[FR Doc. 03–4490 Filed 2–21–03; 11:22 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 03D–0060, 99D–1458, 00D–1538, 00D–1543, 00D–1542, and 00D–1539]

Draft Guidance for Industry on ''Part 11, Electronic Records, Electronic Signatures—Scope and Application;'' Availability of Draft Guidance and Withdrawal of Draft Part 11 Guidance Documents and a Compliance Policy Guide

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; availability; withdrawal.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Part 11, Electronic Records; Electronic Signatures—Scope and Application.'' This draft guidance explains FDA's current thinking regarding the requirements and application of part 11 (21 CFR part 11). As an outgrowth of its current good manufacturing practice (CGMP) initiative for human and animal drugs and biologics, FDA is embarking on a re-examination of part 11 as it applies to all FDA regulated products. We may revise provisions of part 11 as a result of that reexamination. The draft guidance explains that while this re-examination is under way, we intend to exercise enforcement discretion with respect to certain part 11 requirements. We are also announcing the withdrawal of Compliance Policy Guide (CPG) 7153.17 and previously published part 11 draft guidance documents on validation, glossary of terms, time stamps, and maintenance of electronic records.

DATES: Submit written or electronic comments on the draft guidance by April 28, 2003. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or to the Division of Compliance Policy (HFC–230), Office

of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments.* See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Joseph C. Famulare, Center for Drug Evaluation and Research (HFD–320), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–8940, part11@cder.fda.gov; or David Doleski, Center for Biologics Evaluation and Research (HFM–676), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3031, doleski@cber.fda.gov; or John Murray, Center for Devices and Radiological Health (HFZ–340), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–4659, jfm@cdrh.fda.gov; or Vernon D. Toelle, Center for Veterinary Medicine (HFV–234), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0312, vtoelle@cvm.fda.gov; or JoAnn Ziyad, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 202–418–3116, jziyad@cfsan.fda.gov; or Scott MacIntire, Office of Regulatory Affairs (HFC–240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857–1706, 301–827–0386, smacinti@ora.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In March 1997, FDA issued final regulations (part 11) that provided criteria for acceptance by FDA, under certain circumstances, of electronic records, electronic signatures, and handwritten signatures executed to electronic records as equivalent to paper records and handwritten signatures executed on paper (62 FR 13430, March 20, 1997). These regulations, which apply to all FDA program areas, were intended to permit the widest possible use of electronic technology, consistent with FDA's responsibility to protect the public health.

Since part 11 became effective in August 1997, significant discussions have ensued between industry, contractors, and the agency concerning the interpretation and implementation of the rule. Concerns have been raised that some interpretations of the part 11 requirements would: (1) Unnecessarily restrict the use of electronic technology in a manner that is inconsistent with FDA's stated intent in issuing the rule, (2) significantly increase the costs of compliance to an extent that was not contemplated at the time the rule was drafted, and (3) discourage innovation and technological advances without providing a significant public health benefit. These concerns have been raised particularly in the areas of part 11 requirements for validation, audit trails, record retention, record copying, and legacy systems.

This document provides guidance to persons who, in fulfillment of a requirement in a statute or another part of FDA's regulations to maintain records or submit information to FDA, have chosen to maintain the records or submit designated information electronically and, as a result, have become subject to part 11.

This draft guidance announces that we intend to exercise enforcement discretion with respect to the validation, audit trail, record retention, and record copying requirements of part 11. However, records must still be maintained or submitted in accordance with the underlying predicate rules. We also intend to exercise enforcement discretion and will not normally take regulatory action to enforce part 11 with regard to systems that were operational before August 20, 1997, the effective date of part 11 (commonly known as existing or legacy systems) while we are reexamining part 11.

It is important to note that FDA's exercise of enforcement discretion as described in this guidance is limited to the specified part 11 requirements. We intend to enforce all other provisions of part 11 including, but not limited to, certain controls for closed systems in § 11.10, the corresponding controls for open systems (§ 11.30), and requirements related to electronic signatures (e.g., §§ 11.50, 11.70, 11.100, 11.200, and 11.300). We expect continued compliance with these provisions, and we will continue to enforce them.

In the **Federal Register** of February 4, 2003 (68 FR 5645), we announced the withdrawal of the draft guidance entitled ''Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Electronic Copies of Electronic Records'' because we wished to limit the time spent by industry reviewing and commenting on the guidance, which might not have been representative of FDA's approach under the CGMP initiative.

At this time, we are also announcing the withdrawal of CPG 7153.17 and previously published part 11 draft guidance documents on validation, glossary of terms, time stamps, and maintenance of electronic records. FDA has determined that it might cause confusion to leave standing these other draft guidances on part 11 and CPG 7153.17. FDA received valuable public comment on the draft guidances and plans to use that information to inform the agency's future decisionmaking with respect to part 11.

This level 1 draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, if finalized, will represent the agency's current thinking on ''Part 11, Electronic Records, Electronic Signatures—Scope and Application.'' It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments on the draft guidance. Submit a single copy of electronic comments to *http://www.fda.gov/dockets/ecomments* or two hard copies of any written comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at *http://www.fda.gov/cder/guidance/index.htm, http://www.fda.gov/ora under ''Compliance References,'' or http://www.fda.gov/ohrms/dockets/default.htm.*

Dated: February 19, 2003.

William K. Hubbard,

Associate Commissioner for Policy and Planning.

[FR Doc. 03–4312 Filed 2–20–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Impact of Accreditation on BPHC-Supported Community Health Centers—NEW

The Bureau of Primary Health Care (BPHC) has contracted with the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) for a period of three years from 2002 to 2005 to conduct comprehensive evaluations for selected BPHC-supported health centers that will encompass both a full Joint Commission accreditation survey and a review of specified governmental requirements relative to the Primary Care Effectiveness Review. Incorporated into this contract, is a research study that will examine the impact of JCAHO accreditation on BPHC-supported health centers. The reasons for conducting this study are twofold. First, in a March 2000 report, the GAO recommended to HRSA that they determine the cost effectiveness of Joint Commission accreditation and its ability to improve quality and competitiveness in community health centers (GAO/HEHS–00–39 community health centers). HRSA believes that this study will build on a 2002 report by Lewin and Associates that examined the effectiveness of accreditation on a small number of health centers. Second, although considerable anecdotal information is available regarding changes that health centers have made to prepare for or maintain accreditation, this study is designed to provide a detailed examination of the number and type of activities that health centers are engaged in relative to quality of care and patient safety subsequent to becoming accredited.

This study is a descriptive assessment of the impact of accreditation on health centers relative to changes in their approach to quality of care and patient safety. It will assess the impact in a sample of Joint Commission accredited community health centers that include migrant health centers, school based health centers, health centers for the homeless and public housing health centers. This study aims to address two key questions: (a) What do health centers do differently as a result of preparing for and maintaining accreditation? and (b) How has accreditation strengthened health centers' approach to quality, patient safety and performance improvement? The assessment will be conducted by administering two mailed questionnaires to a sample of community health centers.

ESTIMATED BURDEN HOURS

Survey	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Accreditation: Changes in approach to quality and safety	100	1	100	.33	33
Accreditation: Perception of Value	100	4	400	.25	100
Total	100		500		133

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–45, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: February 14, 2003.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03–4313 Filed 2–24–03; 8:45 am]

BILLING CODE 4165–15–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Commission on Childhood Vaccines (ACCV); Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following advisory committee meeting. The meeting will be open to the public.

Name: Advisory Commission on Childhood Vaccines (ACCV).

Date and Time: March 5, 2003; 9 a.m.–2:45 p.m.

Place: Audio conference call, and Ramada Inn, 1775 Rockville Pike, Georgetown Conference Room, Rockville, Maryland 20852.

The full ACCV will meet on Wednesday, March 5, from 9 a.m. to 2:45 p.m. The public can join the meeting in person at the address listed above or by audio conference call by dialing 1–888–928–9122 on March 5 and providing the following information:

Leader's Name: Thomas E. Balbier, Jr.

Password: ACCV.

Agenda: The agenda items for March 5 will include, but are not limited to: A presentation on the Institute of Medicine's report ''Potential Role of Vaccination in Sudden Unexplained Death in Infancy''; an overview of the *Stevens* v. *HHS* Decision; a discussion and application of a proposed alternative standard for the adjudication of off-Table claims; and updates from the Division of Vaccine Injury Compensation, the Department of Justice, and the National Vaccine Program Office. Agenda items are subject to change as priorities dictate.

Public Comments: Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to: Ms. Cheryl Lee, Principal Staff Liaison, Division of Vaccine Injury Compensation, Office of Special Programs, Health Resources and Services Administration, Room 16C–17, 5600 Fishers Lane, Rockville, MD 20857 or by e-mail at *clee@hrsa.gov.* Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Division of Vaccine Injury Compensation will notify each presenter by mail or telephone of his/her assigned presentation time. Persons who do not file an advance request for a presentation, but desire to make an oral statement, may announce it at the time of the comment period on the audio conference call. These persons will be allocated time as time permits.

For Further Information Contact: Anyone requiring information regarding the ACCV should contact Ms. Cheryl Lee, Principal Staff Liaison, Division of Vaccine Injury Compensation, Office of Special Programs, Health Resources and Services Administration, Room 16C–17, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–2124 or e-mail: *clee@hrsa.gov.*

Dated: February 19, 2003.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03–4351 Filed 2–24–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4815–N–06]

Notice of Submission of Proposed Information Collection to OMB: Request for Termination of Multifamily Mortgage Insurance

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 27, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0416) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; E-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Request for Termination of Multifamily Mortgage Insurance.

OMB Approval Number: 2502–0416.

Form Numbers: HUD–9807.

Description of the Need for the Information and Its Proposed Use: Notification from mortgagor and mortgagee to HUD of mutual agreement of termination of HUD multifamily mortgage insurance.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions.

Frequency of Submission: On occasion.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	1,400		1		0.125		175

Total Estimated Burden Hours: 175.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 13, 2003.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 03–4342 Filed 2–24–03; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–610–03–1220–PA]

California Desert District Advisory Council; Call for Nominations

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Call for nominations for the Bureau of Land Management's California Desert District Advisory Council.

SUMMARY: The Bureau of Land Management's California Desert District is soliciting nominations from the public for five members of its District Advisory Council to serve the 2004–2006 three-year term. Council members provide advice and recommendations to BLM on the management of public lands in southern California. Public notice begins with the publication date of this notice. Nominations will be accepted through Saturday, August 30, 2003. The three-year term would begin January 1, 2004.

The five positions to be filled include:

—One renewable resources representative (cattle/grazing interests)
—One environmental protection representative
—One public-at-large representative
—Two elected official representatives (local/county government)

The California Desert District Advisory Council is comprised of 15 private individuals who represent different interests and advise BLM officials on policies and programs concerning the management of 11.5 million acres of public land in southern California. The Council meets in formal session three to four times each year in various locations throughout the California Desert District. Council members serve without compensation except for reimbursement of travel expenditures incurred in the course of their duties. Members serve three-year terms and may be nominated for reappointment for an additional three-year term.

Section 309 of the Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of BLM administered lands. The Secretary also selects council nominees consistent with the requirements of the Federal Advisory Committee Act (FACA), which requires nominees appointed to the council be balanced in terms of points of view and representative of the various interests concerned with the management of the public lands.

The Council also is balanced geographically, and BLM will try to find qualified representatives from areas throughout the California Desert District. The District covers portions of eight counties, and includes 10.4 million acres of public land in the California Desert Conservation Area and 300,000 acres of scattered parcels in San Diego, western Riverside, western San Bernardino, Orange, and Los Angeles Counties (known as the South Coast).

Any group or individual may nominate a qualified person, based upon their education, training, and knowledge of BLM, the California Desert, and the issues involving BLM-administered public lands throughout southern California. Qualified individuals also may nominate themselves.

Nominations must include the name of the nominee; work and home addresses and telephone numbers; a biographical sketch that includes the nominee's work and public service record; any applicable outside interests or other information that demonstrates the nominees qualifications for the position; and the specific category of interest in which the nominee is best qualified to offer advice and council. Nominees may contact the BLM California Desert District External Affairs staff at (909) 697–5220 or write to the address below and request a copy of the nomination form.

All nominations must be accompanied by letters of reference from represented interests, organizations, or elected officials supporting the nomination. Individuals nominating themselves must provide at least one letter of recommendation. Advisory Council members are appointed by the Secretary of the Interior, generally in late January or early February.

Nominations should be sent to the District Manager, Bureau of Land Management, California Desert District Office, 22835 Calle San Juan De Los Lagos, Moreno Valley, California 92553.

FOR FURTHER INFORMATION CONTACT: Doran Sanchez, BLM California Desert District External Affairs (909) 697–5220.

Dated: February 19, 2003.

Linda Hansen,

District Manager.

[FR Doc. 03–4344 Filed 2–24–03; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–912–6320–AA; GP3–0094]

Resource Advisory Committees; Call for Nominations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of a call for nominations for alternate positions to the Bureau of Land Management (BLM) Resource Advisory Committees (Committees) provided for in Section 205 of the Secure Rural Schools and Community Self-Determination Act of 2000, Public Law 106–393 (the Act).

SUMMARY: This purpose of this notice is to solicit nominations for vacant alternate positions to the BLM's Coos Bay, Eugene, Medford and Roseburg Resource Advisory Committees. In accordance with the Committee Charters, the role of an alternate is to fill vacancies that occur when a primary member leaves the Committee. Public nominations will be considered for 30 days after the publication date of this notice.

The BLM Resource Advisory Committee vacancies are as follows:

Coos Bay Resource Advisory Committee

Category One—2 alternates
Category Three—2 alternates

Eugene Resource Advisory Committee

Category One—1 alternate
Category Two—1 alternate

Medford Resource Advisory Committee

Category One—1 alternate

Roseburg Resource Advisory Committee

Category One—1 alternate
Category Two—1 alternate
Category Three—1 alternate

DATES: Nomination applications for alternate positions to the BLM Resource Advisory Committees can be obtained from the Coos Bay, Eugene, Medford, Salem and Roseburg District Office, or on the web at *www.or.blm.gov/planning/advisory.* All applications must be received by the appropriate BLM District office listed below no later than 30 days after publication of this notice. All nominations must include letters of reference from represented interests of organizations and a completed application that includes background information, as well as any other information that speaks to the nominee's qualifications.

BLM Resource Advisory Committee Contacts

Coos Bay Resource Advisory Committee
Sue Richardson, District Manager, 1300 Airport Lane, North Bend, Oregon 97459, (541) 756–0100

Eugene Resource Advisory Committee
Wayne Elliot, Resource Management Advisor, 2890 Chad Drive, Eugene, Oregon 97408–7336, (541) 683–6600

Medford Resource Advisory Committee
Mary Smelcer, Acting District Manager, 3040 Biddle Road, Medford, Oregon 97504, (541) 618–2200

Roseburg District Resource Advisory Committee
Cary Osterhaus, District Manager, 777 NW Garden Valley Blvd., Roseburg, Oregon 97470, (541) 440–4913

FOR FURTHER INFORMATION CONTACT: Maya Fuller, Oregon/Washington Bureau of Land Management, Oregon State Office, PO Box 2965, Portland, Oregon 97208, (503) 808–6437.

SUPPLEMENTARY INFORMATION: The Secure Rural Schools and Community Self-Determination Act of 2000 establishes a five-year payment schedule to local counties in lieu of funds formerly derived from the harvest of timber on federal lands. Pursuant to the Act, BLM established five

Communities for western Oregon BLM districts that contain O&C grant lands and Coos Bay Wagon Road grant lands. Committees' consists of 15 local citizens, plus 6 alternates, representing a wide array of interests.

The Act creates a mechanism for local community collaboration with federal land management activities in the selection of projects to be conducted on federal lands or that will benefit resources on federal lands using funds under Title II of the Act. Committee members review proposed projects and transmit their recommendations on these projects to the agency.

Committee membership must be balanced in terms of the categories of interest represented. Members serve without monetary compensation, but will be reimbursed for travel and per diem when on Committee business, as authorized by 5 U.S.C. 5703. Prospective members and alternates are advised that serving on a Resource Advisory Committee calls for a substantial commitment of time and energy.

Any individual or organization may nominate one or more persons to serve on the Committees. Individuals may also nominate themselves or others. Nominees must reside within one of the counties that are (in whole or part) within the BLM District boundaries of the Committee(s) on which membership is sought. A person may apply for and serve on more than one Committee. Nominees will be evaluated based on their education, training, and experience relating to land use issues and knowledge of the geographical area of the Committee. Nominees must also demonstrate a commitment to collaborative resource decision-making.

You may make nominations for the following categories of interest:

Category One—representatives of organized labor; developed outdoor recreation; off-highway vehicle use; energy and/or mining development; timber industry; or holders of federal grazing permits.

Category Two—representatives of nationally, regionally or locally recognized environmental organizations; dispersed recreation, archaeological and historic interests; or wild horse and burro groups.

Category Three—State, county or local elected officials; representatives of Native American Tribes; school officials or teachers, or the public-at-large.

The BLM Resource Advisory Committees are based on western Oregon BLM District boundaries. Specifically, the BLM Committees are as follows:

Salem District Resource Advisory Committee advises officials on projects associated with federal lands within the Salem District boundary which includes Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties.

Eugene District Resource Advisory Committee advises federal officials on projects associated with federal lands within the Eugene District boundary. The area covers Benton, Douglas, Lane, and Linn Counties.

Roseburg District Resource Advisory Committee advises federal officials on projects associated with federal lands within the Roseburg District boundary which includes Douglas, Lane, and Jackson Counties.

Medford District Resource Advisory Committee advises federal officials on projects associated with federal lands within the Medford District and Klamath Falls Resource Area in the Lakeview District. The area covers Coos, Curry, Douglas, Jackson, and Josephine Counties, and small portions of west Klamath County.

Coos Bay District Resource Advisory Committee advises federal officials on projects associated with federal lands within the Coos Bay District which includes Coos, Curry, Douglas, and Lane Counties.

Dated: February 19, 2003.

Cathy Harris,

Public Affairs Chief, Oregon/Washington Bureau of Land Management.

[FR Doc. 03–4346 Filed 2–24–03; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–100–5882–AF; HAG03–0074]

Notice of Public Meeting, Roseburg Resource Advisory Committee Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting notices for the Roseburg District Bureau of Land Management (BLM) Resource Advisory Committee under section 205 of the Secure Rural Schools and Community Self Determination Act of 2000 (Pub. L. 106–393).

SUMMARY: This notice is published in accordance with section 10(a)(2) of the Federal Advisory Committee Act. Meeting notice is hereby given for the Roseburg District BLM Resource Advisory Committee pursuant to section 205 of the Secure Rural School and Community Self Determination Act of 2000, Public Law 106–393 (the Act). Topics to be discussed by the Roseburg District BLM Resource Advisory Committee include operating procedures, processes used for decision making, facilitation needs, future meeting dates, and a field trip to discuss density management practices.

DATES: The Roseburg Resource Advisory Committee will meet at the BLM Roseburg District Office, 777 NW. Garden Valley Boulevard, Roseburg, Oregon 97470, 9 a.m. to 2 p.m. on March 31, 2003, and 9 a.m. to 2 a.m. for the field trip May 19, 2003.

Committees have been formed for western Oregon BLM district that contain Oregon & California (O&C) Grant Lands and Coos Bay Wagon Road lands. The Act establishes a six-year payment schedule to local counties in lieu of funds derived from the harvest of timber on federal lands, which have dropped dramatically over the past 10 years.

The Act creates a mechanism for local community collaboration in the selection of federal land management projects that will be funded under Title II of the Act. The Roseburg District BLM Resource Advisory Committee consists of 15 local citizens (plus 6 alternates) representing a wide array of interests.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the Roseburg District BLM Resource Advisory Committee may be obtained from E. Lynn Burkett, Public Affairs Officer, Roseburg District Office, 777 NW. Garden Valley Blvd., Roseburg, Oregon 97470 or *elynn_burkett@blm.gov,* or on the web at *http://www.or.blm.gov.*

Dated: February 4, 2003.

Mark A. Buckbee,

Roseburg District Manager.

[FR Doc. 03–4195 Filed 2–24–03; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1310–XG]

Notice of Temporary Closure of Eastern States; Office/Remodeling

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure.

SUMMARY: The Bureau of Land Management, Eastern States State Office is in the process of a remodeling and refurbishing project. The Public Room, Dockets, Accounts, Bindery, the Vaults and Central Records will not be

available to the public. There will be no over-the-counter transactions or research of patent records not contained within the GLO records system. The official records (*i.e.*, case files, field notes, maps, plats, patents, etc.) located in the vaults and dockets will not be available for public inspection. Incoming phone calls will be answered and routed accordingly. All accounting transactions, deposits and GLO system requests will continue without interruption.

DATES: The dates that the Bureau of Land Management, Eastern States Office will be closed for remodeling and refurbishing are February 24, 2003 through March 17, 2003. We will resume all services and access to case files and patents on March 18, 2003. Full access to all other records previously mentioned will commence on March 31, 2003.

FOR FURTHER INFORMATION CONTACT: Stephen Douglas, Deputy State Director, Cadastral Survey and GLO Records, (703) 440–1688.

Dated: February 13, 2003.

Michael D. Nedd,

State Director, Eastern States.

[FR Doc. 03–4494 Filed 2–21–03; 12:08 pm]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an extension of a currently approved information collection (OMB Control Number 1010–0113).

SUMMARY: To comply with the Paperwork Reduction Act (PRA) of 1995, we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR Part 206, Subpart B, Indian Oil. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements. The ICR is titled: ''30 CFR Part 206, Subpart B, Indian Oil (Form MMS–4416, Indian Crude Oil Valuation Report).''

DATES: Submit written comments on or before March 27, 2003.

ADDRESSES: Submit written comments to Sharron L. Gebhardt, Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, PO Box 25165, MS 320B2, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also email your comments to us at *mrm.comments@mms.gov.* Include the title of the information collection and the OMB control number in the ''Attention'' line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation we have received your email, contact Ms. Gebhardt at (303) 231–3211.

FOR FURTHER INFORMATION CONTACT: Sharron L. Gebhardt, telephone (303) 231–3211, FAX (303) 231–3385 or email *sharron.gebhardt@mms.gov.* You may also contact Sharron Gebhardt to obtain a copy at no cost of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR part 206, subpart B, Indian Oil (Form MMS–4416, Indian Crude Oil Valuation Report).

OMB Control Number: 1010–0113.

Bureau Form Number: Form MMS–4416.

Abstract: The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws. The Secretary has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. MMS performs the royalty management functions and assists the Secretary in carrying out DOI's Indian trust responsibility.

Section 101(a) of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), as amended, requires the Secretary to ''establish a comprehensive inspection, collection, and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and collect and account for such amounts in a timely manner.'' To accomplish these tasks more effectively, MMS published a proposed rule in the **Federal Register** on February 12, 1998 (63 FR 7089) and a supplementary proposed rule on January 5, 2000 (65 FR 403). The proposed rules add more certainty to the valuation of oil produced from Indian lands and eliminate any direct reliance on posted prices by, among other provisions, requiring Indian lessees and purchasers to submit certain contract information to MMS.

MMS has announced in the **Federal Register** on February 12, 2003 (68 FR 7086), the dates, places, and times for workshops on issues related to the existing rules adopted in March 2000 governing the valuation for royalty purposes of crude oil produced from Federal leases. The workshops will address, among other things, issues related to calculation of transportation allowances (including the rate of return allowed for calculating actual costs under non-arm's-length transportation arrangements), timing and application of published index prices, and calculation of location and quality differentials under certain circumstances.

Because of the substantive overlap between these issues and issues involved in the proposed rule on Indian oil valuation, and to give persons interested in Indian lease issues an opportunity to participate in the workshops, MMS is reopening the comment period for 60 days on the proposed rule on Indian oil valuation so it can include in the record any relevant comments received. MMS can then consider those comments as they might apply to the Indian oil valuation rule.

Not collecting this information would limit the Secretary's ability to discharge his/her duties and may also result in loss of royalty payments to the Indian lessor due to royalties not being collected on prices received under higher priced long-term sales contracts. Proprietary information submitted is protected, and there are no questions of a sensitive nature included in this ICR.

We have also changed the title of this ICR from ''Indian Crude Oil Valuation Report (Form MMS–4416)'' to ''30 CFR part 206, subpart B, Indian Oil (Form MMS–4416, Indian Crude Oil Valuation Report)'' to clarify the regulatory language we are covering under 30 CFR part 206.

Frequency: Annually; as Agreements/Contracts Change.

Estimated Number and Description of Respondents: 337 (225 oil royalty payors/112 nonpayor—purchasers).

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 2,363 hours.

The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. Therefore, we consider these to be usual and customary and took that into account in estimating the burden.

Proposed 30 CFR section	Reporting requirement	Burden hours per response	Annual number of responses	Annual burden hours
§ 206.81	You must submit information on Form MMS–4416 related to all of your crude oil production from Indian leases. You must initially submit Form MMS–4416 no later than [insert the date 2 months after the effective date of this rule] and then by October 31 [insert the year this regulation takes effect], and by October 31 of each succeeding year.	.1667	2,025 [1]	338
	In addition to the annual requirement to file this form, you must file a new form each time you execute a new exchange or sales contract involving the production of oil from an Indian lease. However, if the contract merely extends the time period a contract is in effect without changing any other terms of the contract, this requirement to file does not apply.	.5	4,050 [2]	2,025
Total			6,075	2,363

[1] 1,350 payor-purchaser agreements or contracts plus 675 non-payor-purchaser agreements or contracts.
[2] 225 payor-purchasers x 6 agreements or contracts per payor x ½ hour per submission x 2 submissions per year plus 675 agreements or contracts submitted by non-payor-purchasers x ½ hour per submission x 2 submissions per year.

Estimated Annual Reporting and Recordkeeping "Non-hour Cost" Burden: We have identified no "non-hour" cost burdens.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Comments: Before submitting an ICR to OMB, PRA Section 3506(c)(2)(A) requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *." Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a **Federal Register** Notice on October 9, 2002 (67 FR 62985), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by March 27, 2003.

Public Comment Policy: We will post all comments in response to this notice on our web site at *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm.* We will also make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request we withhold their home address from the public record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: February 14, 2003.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. 03–4398 Filed 2–24–03; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Backcountry Management Plan, General Management Plan Amendment and Environmental Impact Statement, Denali National Park and Preserve, Alaska

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of the Draft Backcountry Management Plan, General Management Plan Amendment and Environmental Impact Statement.

SUMMARY: The National Park Service (NPS) announces the availability of the Draft Backcountry Management Plan, General Management Plan Amendment and Environmental Impact Statement (EIS) for Denali National Park and Preserve. The document describes and analyzes the environmental impacts of a preferred alternative and three action alternatives for managing the park and preserve's backcountry. A no action alternative also is evaluated. This notice announces the 75-day public comment period, the locations of public hearings, and solicits comments on the draft plan and EIS.

DATES: Comments on the draft plan and EIS must be received no later than May 7, 2003.

ADDRESSES: Comments on the draft plan and EIS should be submitted to the Superintendent, Denali National Park and Preserve, Post Office Box 9, Denali Park, Alaska 99755. Submit electronic comments to *dena_public_comment@nps.gov.* The draft EIS may be viewed online at *http://www.nps.gov/dena* through the ''in Depth'' link on our homepage under ''Planning and Management.'' Hard copies or CDs of the Draft Backcountry Management Plan and General Management Plan Amendment and EIS are available by request from the aforementioned address. See **SUPPLEMENTARY INFORMATION** for the locations of informational meetings and public hearings.

FOR FURTHER INFORMATION CONTACT: Mike Tranel, Chief of Planning, Denali National Park and Preserve. Telephone: (907) 257–2562.

SUPPLEMENTARY INFORMATION: The National Park Service (NPS) is preparing a backcountry management plan and accompanying EIS that amends the 1986 General Management Plan for Denali National Park and Preserve. The purpose of the plan and EIS is to formulate a comprehensive plan for the backcountry, including designated wilderness, of Denali National Park and Preserve that will provide management direction over the next 15–20 years. The backcountry of Denali National Park and Preserve is defined to include the entire park except for those areas designated specifically for development in the entrance area and along the road corridor. Many issues to be addressed in the backcountry management plan, however, would affect the entire park, including developed areas. The NPS has initiated this management plan and EIS to address the rapidly growing level and diversity of uses, resource management needs, and the anticipated demand for future uses not foreseen or addressed in the 1986 General Management Plan. The NPS developed a range of alternatives based on planning objectives, park resources, and public input. Each alternative represents a distinct vision for the park's backcountry. These alternatives describe actions related to management area designation, recreational activities, and administrative activities. Four alternatives in addition to a no-action alternative were developed.

Alternative A (No Action): Current and projected conditions under this alternative provide a baseline for evaluating the changes and impacts of the other action alternatives. The NPS would continue the present management direction, guided by the 1986 General Management Plan, the 1997 Entrance Area and Road Corridor Development Concept Plan, the 1997 South Side Denali Development Concept Plan, the 1997 Strategic Plan, and backcountry management plans from 1976 and 1982. Recreational use and access patterns would continue to develop, and the NPS would respond as necessary on a case-by-case basis. No new services or facilities would be developed to meet increased levels of use in the backcountry, except for those identified in the Entrance Area or South Side plans. This alternative represents ''no action'' for this plan. For all activities, the NPS would respond to changing use patterns as necessary to protect park resources, visitor safety, and visitor experience.

Alternative B: This alternative would emphasize wilderness resource values (including solitude and natural sounds) and opportunities for self-reliant, non-motorized recreation that depend on the wilderness character of the resource. Denali would have a high degree of resource protection, especially in the original Old Park area. Under this alternative, some uses would be reduced or managed for greater dispersal to enhance resource protection. While some new approved uses could occur, services would be minimized to provide self-reliant experiences.

Alternative C: This alternative would emphasize highly dispersed recreational uses that are consistent with wilderness values and opportunities for solitude. It would allow for both motorized and non-motorized recreation activities, but would limit growth or otherwise manage use levels to provide a quality visitor experience and protect park resources.

Alternative D (NPS Preferred Alternative): The NPS would provide for expanded recreational opportunities in many areas of the park and preserve for activities that are particularly well suited to the unique character of Denali. Use levels would not exceed those that maintain the management vision for a particular unit. Patterns and types of use would be somewhat similar to current conditions, but increases in levels of use would be noticeable at several locations.

Alternative E: This alternative would emphasize expanded visitor services, additional facilities, and increased motorized access for backcountry users. A variety of uses would be accommodated throughout the park, and new forms and levels of recreational uses would be allowed in the park additions and preserve, while protecting resources. New facilities would be added in the entrance area and on the south side. There would be some expansion of existing uses in the original Old Park area, with modest expansion of uses in the park additions and preserve. There would be minimal reductions of or redistribution of existing uses even in congested areas. This alternative would allow additional types of use not presently occurring but consistent with laws, regulations, and management policies. As types and levels of use increase, so too would administrative presence.

Informational meetings and public hearings are scheduled in Alaska at the following locations: Anchorage, Wasilla, Fairbanks, Healy, Susitna Valley, Minchumina, and Cantwell. The specific dates and times of the meetings and public hearings will be announced in local media.

Dated: February 12, 2003.

Marcia Blaszak,

Acting Regional Director, Alaska.

[FR Doc. 03–4352 Filed 2–24–03; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1013 (Final)]

Saccharin From China

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: February 13, 2003.

FOR FURTHER INFORMATION CONTACT: D.J. Na (202–708–4727), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: Effective December 27, 2002, the Commission established a schedule for the conduct of the final phase of the subject investigation (68 FR 1860, January 14, 2003). Subsequently, the Department of Commerce extended the date for its final determination in the investigation to

May 12 (68 FR 6885, February 11, 2003). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: Requests to appear at the hearing must be filed with the Secretary to the Commission not later than May 8; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on May 12, 2003; the prehearing staff report will be placed in the nonpublic record on May 1, 2003; the deadline for filing prehearing briefs is May 8, 2003; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on May 15, 2003; the deadline for filing posthearing briefs is May 22, 2003; the Commission will make its final release of information on June 6, 2003; and final party comments are due on June 10, 2003.

For further information concerning this investigation see the Commission's notice cited above and the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

Issued: February 14, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–4314 Filed 2–24–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-Day Notice of Information Collection under Review: Application for authorization to Issue Health Care Certificates; form I–905.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on September 17, 2002 at 67 FR 58634, allowing for a 30-day public review and comment period on the proposed revised form. No comments were received on this information collection. However, the proposed form was withdrawn and continued by OMB until submission of final regulation.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until March 27, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Suite 10102, Washington, DC 20530; Attention: Department of Justice Desk Officer, Room 10235.

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 agency's 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 a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Authorization to Issue Health Care Certificates.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–905, Business and Trade Services, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Not-for-profit institutions. The data collected on this form is used by the Service to determine eligibility of an organization to issue certificates to foreign health care workers.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 10 responses at 4 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 40 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, Patrick Henry Building, 601 D Street, NW., Ste. 1600, Washington, DC 20530.

Dated: February 19, 2003.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 03–4353 Filed 2–24–03; 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; Application for asylum and withholding of removal; form I–589.

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 April 28, 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 form 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:* Application for asylum and for withholding of removal.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–589. Office of International Affairs, 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 information collection will be used to determine whether an alien applying for asylum and/or withholding of deportation in the United States is classifiable as a refugee, and is eligible to remain in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 78,000 responses at 12 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 936,000 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 4304, 421 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: February 19, 2003.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 03–4354 Filed 2–24–03; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Federal Economic Statistics Advisory Committee; Notice of Open Meeting and Agenda

The fifth meeting of the Federal Economic Statistics Advisory Committee will be held on March 21, 2003 in the Postal Square Building, 2 Massachusetts Avenue NE., Washington, DC.

The Federal Economic Statistics Advisory Committee is a technical committee composed of economists, statisticians, and behavioral scientists who are recognized for their attainments and objectivity in their respective fields. Committee members are called upon to analyze issues involved in producing Federal economic statistics and recommend practices that will lead to optimum efficiency, effectiveness, and cooperation among the Department of Labor, Bureau of Labor Statistics and the Department of Commerce, Bureau of Economic Analysis and Bureau of the Census.

The meeting will be held in Meeting Rooms 1, 2, and 3 of the Postal Square Building Conference Center. The schedule and agenda for the meeting are as follows:

9:15 a.m. Opening Session

9:30 a.m.

1. Comparison of expenditure estimates, Consumer Expenditure Survey (CE) and Personal Consumption Expenditures (PCE).
2. Comparison of movements in the CPI and PCE price indexes.

11:30 a.m. Progress Report: Research into the use of hedonics in the CPI.

1:15 p.m. Agency edit procedures.

3:15 p.m. Benefit usage data in the Employment Cost Index (ECI).

4:15 p.m. Priorities for future meetings.

5:00 p.m. Conclude (approximate time).

The meeting is open to the public. Any questions concerning the meeting should be directed to Margaret Johnson, Federal Economic Statistics Advisory Committee, on Area Code (202) 691–5600. Individuals with disabilities, who need special accommodations, should contact Ms. Johnson at least two days prior to the meeting date.

Signed at Washington, DC the 19th day of February 2003.

Kathleen P. Utgoff,

Commissioner of Labor Statistics.

[FR Doc. 03–4401 Filed 2–24–03; 8:45 am]

BILLING CODE 4510–24–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of February 24, March 3, 10, 17, 24, 31, 2003.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of February 24, 2003

There are no meetings scheduled for the Week of February 24, 2003.

Week of March 3, 2003—Tentative

Monday, March 3, 2003.

10 a.m.—Briefing on Status of Office of Nuclear Material Safety and Safeguards (NMSS) Programs—Waste Safety (Public Meeting) (Contact: Claudia Seeling, 301–415–7243).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

2 p.m.—Discussion of Security Issues (Closed—Ex. 1).

Week of March 10, 2003—Tentative

There are no meetings scheduled for the Week of March 10, 2003.

Week of March 17, 2003—Tentative

Thursday, March 20, 2003.

10 a.m.—Briefing on Status of Office of Nuclear Security and Incident

Response (NSIR) Programs, Performance, and Plans (Closed—Ex. 1).

2 p.m.—Discussion of Management Issues (Closed—Ex. 2).

Week of March 24, 2003—Tentative

Thursday, March 27, 2003

10 a.m.—Briefing on Status of Office of Nuclear Regulatory Research (RES) Programs, Performance, and Plans.

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of March 31, 2003—Tentative

There are no meetings scheduled for the Week of March 31, 2003.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1615.

* * * * *

Additional Information: By a vote of 5–0 on February 13, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), Docket Nos. 50–275–LT, 50–323–LT,'' be held on February 14, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in received this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: February 20, 2003.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 03–4532 Filed 2–21–03; 12:55 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the New York Stock Exchange, Inc. (Cabot Industrial Properties, L.P., 7.125% Redeemable Notes (due 2003)) File No. 1–14979

February 19, 2003.

Cabot Industrial Properties, L.P., a limited partnership under the laws of the State of Delaware (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its 7.125% Redeemable Notes (due 2004) (''Security''), from listing and registration on the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'').

Cabot Industrial Trust, the sole General Partner of the Issuer (''Sole Partner'') approved resolutions on February 12, 2003 to withdraw the Issuer's Security from listing on the NYSE. In making its decision to withdraw the Issuer's Security from the Exchange, the Sole Partner states that pursuant to an Offer to Purchase and Consent Solicitation Statement dated January 15, 2003, the Issuer has offered to repurchase all of the outstanding Security and has solicited the consent of the holders of the Security to certain amendments to the indenture under which the Security was issued. As of January 29, 2003, the Issuer had received consents sufficient to amend the indenture and had received valid tenders for 98.13% of the aggregate outstanding principal amount of the Security. The Issuer states that once the offer is successfully consummated, the Issuer expects there to be few or no remaining holders of the Security.

The Issuer stated in its application that it has met the requirements of the NYSE rules governing an issuer's voluntary withdrawal of a security from listing and registration. The Issuer's application relates solely to the Security's withdrawal from listing on the NYSE and from registration under Section 12(b) of the Act [3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before March 14, 2003, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the NYSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 03–4358 Filed 2–24–03; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on The Boston Stock Exchange, Inc. (Chiquita Brands International, Inc., Common Stock, $.01 par value, (the ''Old Common Stock'' in existence through March 19, 2002)) File No. 1–10550

February 19, 2003.

Chiquita Brands International, Inc., a New Jersey corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its $.01 par value, (the ''Old Common Stock'' in existence through March 19, 2002) (''Security''), from listing and registration on the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'').

On February 13, 2002, the Board of Directors (''Board'') of the Issuer approved resolutions to withdraw the Security from listing on the Exchange. The Board states that the following reasons factored into its decision to withdraw the Security from the BSE: (i) The Security has not traded on the BSE since March 19, 2002, on which date the Issuer emerged from a reorganization under Chapter 11 of the United States bankruptcy laws, and in connection with the reorganization, canceled all of its securities outstanding prior to the effectiveness of the reorganization and issued new common stock (the ''New Common Stock'') and other securities to

certain investors; (ii) the New Common Stock has been listed on the New York Stock Exchange, Inc. (''NYSE'') since March 19, 2002; and (iii) the Issuer sought to simplify its operations, and determined to maintain listing of the New Common Stock only on the NYSE. The Issuer notes that the New Common Stock is not listed on the BSE and only trades on the Exchange on an unlisted trading privileges basis.

The Issuer stated in its application that it has met the requirements of the BSE rules governing an issuer's voluntary withdrawal of a security from listing and registration. The Issuer's application relates solely to the Security's withdrawal from listing on the BSE and from registration under Section 12(b) of the Act [3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before March 14, 2003, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the BSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 03–4359 Filed 2–24–03; 8:45 am]

BILLING CODE 8010–01–P

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47374; File No. SR–Amex–2002–102]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the American Stock Exchange LLC to Create a New Percentage Order Type to be Called ''Immediate Execution or Cancel Election''

February 19, 2003.

I. Introduction

On December 10, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its Rule 131 to create a new percentage order type to be called Immediate Execution or Cancel Election. The proposed rule change was published for public comment in the **Federal Register** on January 17, 2003.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

Currently, Amex Rule 131 provides for three types of percentage orders: straight limit, last sale, and ''buy minus/sell plus.'' The Exchange believes that the application of the election provisions does not meet the interests of some investors placing percentage orders, particularly last sale percentage orders. The Exchange believes that investors rely on last sale percentage orders as a way to trade along with the trend of the market without initiating price changes or otherwise influencing the equilibrium or buying and selling interest. However, executions may not always be able to be effected, as the market trend may continue to move away from the price at which the order may be executed. In addition, elected portions of the last sale percentage order may lag behind movement of the market, which defeats the investor's purpose in entering the order.

In response, the Exchange proposes to amend Amex Rule 131(k) to adopt a percentage order type called Immediate Execution or Cancel Election. Under the terms of the proposal, the elected portion of a percentage order marked Immediate Execution or Cancel Election would be required to be executed immediately, in whole or in part, at the price of the electing transaction, or better. If the elected portion cannot be executed at that price or better, the election would be deemed canceled, and the unexecuted elected portion would revert back to a percentage order, subject to subsequent election or conversion.

For example, where an Immediate Execution or Cancel Election buy percentage order for 1,000 shares at 30.50 is placed with the specialist and the next transaction consists of 500 shares at 30.25, the specialist would elect 500 shares and must immediately execute the order at the price of the electing transaction, 30.25, or better. If there is liquidity sufficient to execute only 300 shares at the price of the electing transaction, 30.25, or better, the specialist would execute 300 shares at that price, the election of the remaining 200 shares would be canceled, and the 200 shares would revert back to an unelected percentage order. If, instead, there is no further market interest to sell at 30.25, and the market moves away from the price of the electing transaction to, for instance, 30.30, the entire election would be canceled,[4] and the unexecuted elected portion would revert back to a percentage order.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act [5] and the rules and regulations thereunder applicable to a national securities exchange.[6] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act, which requires, among other things, that the Exchange's procedures be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.[7]

The Commission believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market by providing additional flexibility to investors entering percentage orders. Specifically, the proposed Immediate Execution or Cancel Election percentage order should allow investors to achieve their investment goals while continuing to limit the specialist's discretion in representing such orders. The Commission believes that requiring the specialist to treat an election as canceled, unless the elected portion can be executed immediately at the price of the electing transaction or better, should ensure that the investor will not be trading ahead of, nor lagging behind, the market when there is insufficient interest to execute the elected portion of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 47177 (January 13, 2003), 68 FR 2592.

[4] The specialist would not execute the order at 30.30, even though such an execution is within the maximum limit of the percentage order (30.50). In this regard, an Immediate Execution or Cancel Election percentage order is treated similar to a last sale percentage order. Telephone conversation between David Fisch, Managing Director, Amex, and Sapna Patel, Attorney, Division of Market Regulation, Commission, on January 10, 2003.

[5] 15 U.S.C. 78f(b).

[6] In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

the order at the price of the electing transaction.

The Commission also believes that the proposed approach sets forth adequate objective criteria to guide the specialist's representation of the order. Although the execution of certain percentage orders, particularly percentage orders that have been converted by a specialist, may present issues relating to the proper amount of discretion allowed to the specialist executing such orders, Immediate Execution or Cancel Election percentage orders do not raise such concerns. Specifically, a specialist must execute an Immediate Execution or Cancel Election percentage order at the instructed election price immediately upon the occurrence of a trade at the electing price or better, or treat the transaction as canceled.

In addition, the Commission notes that Amex's proposed Immediate Execution or Cancel Election percentage order is similar to the Immediate Execution or Cancel Election percentage order adopted by the New York Stock Exchange, Inc. (''NYSE'').[8]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–Amex-2002–102) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–4356 Filed 2–24–03; 8:45 am]

BILLING CODE 8010–01–P

[8] *See* NYSE Rule 13; *see also* Securities Exchange Act Release No. 39837 (April 8, 1998), 63 FR 18244 (April 14, 1998) (order approving NYSE–97–38).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47369; File No. SR–CHX–2003–01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Membership Dues and Fees

February 14, 2003.

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 January 30, 2003, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed a proposed rule change with the Securities and Exchange Commission (''SEC'' or ''Commission''). The proposed rule change is described in Items I, II and III below, which Items have been prepared by the Exchange. The CHX has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its membership dues and fees schedule (the ''Schedule''), effective February 1, 2003, to modify various technology charges and establish a new connectivity fee. The proposed fee schedule is available at the CHX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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 proposed rule change amends the Schedule by revising the charges assessed to on-floor member firms for the computer equipment and other technology that the Exchange provides. In some cases, these costs have decreased; in other cases, these costs have increased.[4] The Schedule also contains updated references to the equipment provided by the Exchange and combines, in one list, the previously separated charges for equipment provided to floor brokers and to specialists trading listed and OTC securities.

In addition to the changes to existing charges, the Exchange also proposes to begin charging a fee for the connectivity it provides its on-floor members to three separate networks. In the past, these charges had been partially included in other fees, such as those for monitors and computers. By charging separately for the connectivity provided to member firms, the Exchange can more appropriately pass on connectivity costs directly to the firms that receive specific services.

2. Statutory Basis

The CHX believes that the proposed rule change is consistent with Section 6(b)(4) of the Act[5] in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CHX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[6] and subparagraph (f)(2) of Rule 19b–4 thereunder,[7] because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] For example, the fees for monitors would be substantially decreased, while the Exchange would charge a higher fee for soon-to-be-acquired laser printers.

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to file number SR–CHX–2003–01 and should be submitted by March 18, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–4360 Filed 2–24–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47370; File No. SR–OC–2003–02]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by OneChicago, LLC Relating to Block Trading

February 14, 2003.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] and rule 19b–7 under the Act,[2] notice is hereby given that on February 6, 2003, OneChicago, LLC (''OneChicago'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule changes described in items I, II, and III below, which items have been prepared by OneChicago. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons. OneChicago also filed a written certification with the Commodity Futures Trading Commission (''CFTC'') under section 5c(c) of the Commodity Exchange Act[3] on February 5, 2003.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

OneChicago is proposing to reduce the minimum number of contracts that may be negotiated in a block trade from 10,000 contracts to 500 contracts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OneChicago has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from members, participants, and others. The text of these statements may be examined at the places specified in item IV below. These statements are set forth in sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

OneChicago is proposing to amend its Block Trade Policy to reduce the minimum number of contracts that may be negotiated in a block trade to 500 contracts. OneChicago rule 417 permits block trade transactions that are ''for at least the minimum number of Contracts as will from time to time be specified by the Exchange.'' OneChicago's Block Trade Policy establishes a minimum number of 10,000 contracts for block trade transactions. The proposed rule change would amend OneChicago's Block Trade Policy to permit a minimum number of 500 contracts for block trade transactions.

OneChicago believes that this change is appropriate for competitive purposes.

2. Statutory Basis

OneChicago believes that the proposed rule change is consistent with section 6(b)(5) of the Act[4] in that it promotes competition, is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and to protect investors and the public interest. The proposed rule change will permit OneChicago to better compete with other security futures markets. OneChicago also believes that the proposed rule change will also promote just and equitable principles of trade and protect investors by providing a prudent level of minimum contracts for block trade transactions for those sophisticated persons and professionals that are permitted to enter into these transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

OneChicago does not believe that the proposed rule change will have a negative impact on competition. In fact, OneChicago believes that the proposed rule change will promote competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule change have not been solicited and no comments have been received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of section 19(b)(1) of the Act.[5]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change conflicts with the Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically to the following e-mail address: *rule-comments@sec.gov.* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of these filings also will be available for inspection and copying at the principal office of OneChicago. Electronically submitted comments will be posted on the Commission's Web site

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

[3] 7 U.S.C. 7a–2(c).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78s(b)(1).

(*http://www.sec.gov*). All submissions should refer to File No. SR–OC–2003–02 and should be submitted by March 18, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–4361 Filed 2–24–03; 8:45 am]

BILLING CODE 8010–01–P

[6] 17 CFR 200.30–3(a)(75).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47373; File No. SR–Phlx–2002–76]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by Philadelphia Stock Exchange, Inc. Relating to Certain Rules Governing Participation in Crossing Transactions Effected on the Exchange

February 19, 2003.

On November 21, 2002, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend certain Phlx Rules governing participation in crossing transactions effected on the Exchange. Specifically, the Phlx proposes to amend Phlx Rule 126, adding Supplementary Material (h) instituting an alternative procedure for crossing certain orders of 10,000 shares or greater (the ''Alternative Procedure''). In addition, the Phlx proposes to amend Phlx Rule 229B, to allow specialists and floor brokers on the Exchange's equity floor to take advantage of the Alternative Procedures electronically. The proposed rule change, as amended, was published for notice and comment in the **Federal Register** on January 15, 2003.[3] The Commission received no comments on the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[4] and, in particular, the requirements of Section 6 of the Act[5] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to 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.

The Exchange is concerned that in a decimal pricing environment a portion of the crossing business and corresponding Exchange volume could evaporate unless members and their customers receive the protection offered by the Alternative Procedures. The Commission believes that the Alternative Procedures strike a balance of interests of those members who are impacted by crossing transactions. Members attempting to execute crosses for their customers may be interested, on behalf of their customers, in obtaining a rapid execution of their order at a single price. Members submitting Updated Quotations may be interested in executing against with a portion of one side or the other of the cross because they see this as a favorable trade. The Commission finds that the proposal appears to be reasonably designed to allow both interests to be fulfilled by streamlining the crossing procedures while retaining the right of members to represent their best bid or offer through their response to the request for an Updated Quotation. The Commission also finds that the proposal protects the priority of agency orders by requiring that in no event shall an agency order in the book, having time priority, remain unexecuted after any other order at its price has been effected.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[8], that the proposed rule change, as amended (SR–Amex–2002–76), be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–4357 Filed 2–24–03; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 47140 (January 8, 2003), 68 FR 2098.

[4] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Notice No. 4263]

Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 a.m. on Tuesday, March 4, 2003, in Room 6319, at U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, DC 20593–0001. The purpose of this meeting is to prepare for the 46th session of the Subcommittee on Ship Design and Equipment (DE 46) of the International Maritime Organization (IMO) scheduled for March 10–19, 2003, at IMO Headquarters in London, England.

Items of particular interest on the DE 46 agenda are: Revision of resolutions MEPC.60(33) and A.586(14) regarding pollution prevention equipment; interpretations to the 2000 High Speed Craft Code; safety aspects of ballast water management; amendments to SOLAS requirements on electrical installations; amendments to resolution A.744(18) regarding guidelines on the enhanced program of inspections during surveys of bulk carriers and oil tankers; large passenger ship safety; review of fast rescue boat and means of rescue requirements; performance testing and approval standards for SOLAS personal life-saving appliances; protection of pump-rooms of tankers and access to shore-based computer programs for salvage operations; guidelines under MARPOL Annex VI on prevention of air pollution from ships to specifically address on-board NO_X monitoring and recording devices; and numerous matters related to bulk carriers.

IMO works to develop international agreements, guidelines, and standards for the marine industry. In most cases, these form the basis for class society rules and national standards/regulations. Open meetings of the SHC support the U.S. Representatives to the IMO in developing the U.S. position on those issues raised at the IMO Subcommittee meetings. This open meeting serves as an excellent forum for the public. Persons are encouraged to attend to participate in the development of the U.S. positions on issues affecting your maritime industry at DE 46 and to remain abreast of all activities ongoing within the IMO. Members of the public may attend this meeting up to the seating capacity of the room. For further information, please contact Mr. Wayne Lundy, at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001; e-mail *wlundy@comdt.uscg.mil*, telephone (202) 267–0024.

Dated: February 11, 2003.

Frederick J. Kenney,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 03–4362 Filed 2–24–03; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 4283]

Extension of the Restriction on the Use of United States Passports for Travel To, In or Through Iraq

On February 1, 1991, pursuant to the authority of 22 U.S.C. 211a and Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.73(a)(2) and (a)(3), all United States passports, with certain exceptions, were declared invalid for travel to, in, or through Iraq unless specifically validated for such travel. The restriction was originally imposed on the grounds that (1) armed hostilities then were taking place in Iraq and Kuwait and (2) there was an imminent danger to the safety of United States travelers to Iraq. American citizens then residing in Iraq and American professional reporters and journalists on assignment there were exempted from the restriction on the grounds that such exemptions were in the national interest. The restriction has been extended for additional one-year periods since then, and was last extended through February 25, 2003.

Conditions in Iraq remain hazardous for Americans. In an effort to compel Iraq to fulfill its obligations under UN Security Council resolutions, the United Nation has initiated an intensive inspections program. Mounting tensions between the Iraqi regime and the international community create an increasingly hazardous atmosphere for Americans in Iraq. If hostilities were to break out, the risk to Americans would be grave. The Iraqi regime has in the past demonstrated a willingness to use violence and intimidation against foreigners to pursue its foreign policy goals, and we believe it remains prepared to do so in the future.

At the outbreak of the Gulf War, the Iraqi regime took private citizens, including Americans, hostage and forced them to serve as ''human shields'' at strategic sites throughout Iraq. The Iraqi government has long asserted that it cannot ensure the safety of U.S. citizen United Nations humanitarian workers in Iraq, prompting the United Nations to remove them. Iraq regularly fires anti-aircraft artillery and surface-to-air missiles at U.S. and coalition aircraft patrolling the no-fly ones over northern and southern Iraq, and regularly illuminates U.S. and coalition aircraft with target-acquisition radar.

The tactics Iraq uses in the repression of its own civilian population creates a high risk to innocent bystanders. In addition, U.S. citizens and other foreigners working inside Kuwait near the Iraqi borders have been detained by Iraqi authorities in the past and sentenced to lengthy jail terms for alleged illegal entry into the country. Although our interests are represented by the Embassy of Poland in Baghdad, its ability to obtain consular access to detained U.S. citizens and to perform emergency services is constrained. In light of these circumstances, and pursuant to the authorities set forth in 22 U.S.C. 211a, Executive Order 11295, and 22 CFR 51.73, I have determined that Iraq continues to be a country where ''there is imminent danger to the public health or physical safety of United States travellers''.

Accordingly, United States passports shall continue to be invalid for travel to, in or through Iraq unless specifically validated for such travel under the authority of the Secretary of State. This restriction on the validity of U.S. passports for travel to, in or through Iraq shall not apply to and journalists on assignment there.

The Public Notice shall be effective from the date it is published in the Federal Register and shall expire at midnight on February 25, 2004, unless sooner extended or revoked by Public Notice.

Dated: February 12, 2003.

Colin L. Powell,

Secretary of State, Department of State.

[FR Doc. 03–4105 Filed 2–24–03; 8:45 am]

BILLING CODE 4710–10–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Request for Public Comment Regarding Andean Trade Promotion and Drug Eradication Act (ATPDEA) Beneficiary Countries

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: In compliance with section 203(f) of the Andean Trade Preference Act (ATPA) (19 U.S.C. 3201), as amended by the Andean Trade Promotion and Drug Eradication Act (ATPDEA), the Office of the United States Trade Representative (USTR) is requesting the views of interested parties on whether the countries designated as ATPDEA beneficiary countries in Presidential Proclamation 7616 of October 31, 2002, are meeting the eligibility criteria provided for in section 204(b)(6)(B) of the ATPA, as amended by the ATPDEA.

DATES: Public comments are due at USTR no later than 5 p.m., March 27, 2002.

ADDRESSES: Submissions by mail or express delivery: Public Reading Room, ATTN: ATPDEA Beneficiary Countries, Office of the United States Trade Representative, 1724 F Street, Room F12P1, NW., Washington, DC 20508. Submissions by electronic mail: *FR0030@ustr.gov.* See requirements for submissions below.

FOR FURTHER INFORMATION CONTACT: Bennett Harman, Office of the Americas, Office of the United States Trade Representative, 600 17th Street, NW., Room 523, Washington, DC 20508. The telephone number is (202) 395–5190.

SUPPLEMENTARY INFORMATION: Signed into law on August 6, 2002, the Trade Act of 2002 contains, in title XXXI, provisions for enhanced trade benefits for eligible Andean countries. Titled the ''Andean Trade Promotion and Drug Eradication Act'' (ATPDEA), the ATPDEA renews the Andean Trade Preference Act (ATPA), and amends the ATPA to provide preferential treatment for certain products previously excluded from such treatment. In Presidential Proclamation 7616 of October 31, 2002, the President designated Bolivia, Colombia, Ecuador and Peru as ATPDEA beneficiary countries. Section 203(f) of the ATPA, as amended by the ATPDEA, requires the USTR, not later than April 30, 2003, to submit to Congress a report on the operation of the ATPA. Section 203(f)(2) requires USTR, before submitting such report, to request comments on whether beneficiary countries are meeting the criteria listed in section 204(6)(B). USTR refers interested parties to the **Federal Register** notice published on August 15, 2002 (67 FR 53379), for a full list of section 204(6)(B)'s eligibility criteria.

Submitting Comments: Comments, in English, may be submitted by mail, express delivery service, or e-mail (to *FR0030@ustr.gov*). It is strongly recommended that comments submitted by mail or express delivery service also be sent by e-mail. Persons making submissions by e-mail should use the following subject line: ''ATPDEA Beneficiary Countries''. Documents should be submitted as either WordPerfect, MSWord, or text (.TXT) files. Supporting documentation

submitted as spreadsheets are acceptable as Quattro Pro or Excel. For any document containing business confidential information submitted electronically, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the characters ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the submitter. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files. Persons submitting written comments by mail or express delivery service should provide 20 copies.

Written comments, notices of testimony, and testimony will be placed in a file open to public inspection pursuant to 15 CFR 2003.5, except confidential business information exempt from public inspection in accordance with 15 CFR 2003.6. Confidential business information submitted in accordance with 15 CFR 2003.6 must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top of each page, including any cover letter or cover page, and must be accompanied by a nonconfidential summary of the confidential information. All public documents and nonconfidential summaries shall be available for public inspection in the USTR Reading Room. The USTR Reading Room is open to the public, by appointment only, from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday. An appointment to review the file may be made by calling (202) 395–6186. Appointments must be scheduled at least 48 hours in advance.

Regina Vargo,

Assistant United States Trade Representative for the Americas.

[FR Doc. 03–4391 Filed 2–24–03; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2003–14494]

National Offshore Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The National Offshore Safety Advisory Committee (NOSAC) will meet to discuss various issues relating to offshore safety and security. The meeting will be open to the public.

DATES: NOSAC will meet on Thursday, April 3, 2003, from 9 a.m. to 3 p.m. The 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 March 20, 2003. Requests to have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before March 20, 2003.

ADDRESSES: NOSAC will meet in room 2415, of the Coast Guard Headquarters Bldg, 2100 Second Street, SW., Washington, DC. Send written material and requests to make oral presentations to Captain M. W. Brown, Executive Director of NOSAC, Commandant (G–MSO), 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: Captain M. W. Brown, Executive Director of NOSAC, or Mr. Jim Magill, Assistant to the Executive Director, telephone 202–267–0214, fax 202–267–4570.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

National Offshore Safety Advisory Committee. The agenda includes the following:

(1) Report on issues concerning the International Maritime Organization and the International Organization for Standardization.

(2) Report by the Coast Guard on meetings held and plans to develop maritime and offshore security rules.

(3) Report from Offshore Security Subcommittee and discussion of any recommendations to the Coast Guard regarding security regulations.

(4) Report from Liftboat Subcommittee.

(5) Report from Task Force on development and implementation of the Standards of Training, Certification and Watchkeeping for Seafarers (STCW) Convention for offshore supply vessels (OSVs).

(6) Progress report from the Subcommittee on Pipeline-Free Anchorages.

(7) MMS presentation on the use of their pipeline database for the Gulf of Mexico.

(8) Revision of 33 CFR subchapter N, Outer Continental Shelf activities.

(9) Status report on Coast Guard/Minerals Management Service Inspection of Fixed Facilities.

(10) Update on Coast Guard Initiatives on Crew Fatigue.

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, 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 Executive Director no later than March 20, 2003. Written material for distribution at the meeting should reach the Coast Guard no later than March 20, 2003. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 25 copies to the Executive Director (*see* **ADDRESSES**) no later than March 20, 2003.

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, telephone the Executive Director at 202–267–0214 as soon as possible.

Dated: February 13, 2003.

Howard L. Hime,

Acting Director of Standards, Marine Safety, Security & Environment Protection.

[FR Doc. 03–4409 Filed 2–24–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (03–06–C–00–SLC) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Salt Lake City International Airport, Submitted by the Salt Lake City Department of Airports, Salt Lake City, Utah

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 Salt Lake City 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 March 27, 2003.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Alan E. Wiechmann, Manager, Denver Airports District Office, DEN–ADO, Federal Aviation Administration, 26805 East 68th Avenue, Suite 224, Denver, Colorado 80249.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Timothy L. Campbell, Executive Director, at the following address: Salt Lake City Department of Airports, 776 N. Terminal Dr., TUI, Suite 250, Salt Lake City, Utah 84122.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Salt Lake City International Airport, under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher J. Schaffer, (303) 342–1258, 26805 East 68th Avenue, Suite 224, Denver, Colorado 80249. 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 03–06–C–00–SLC to impose and use PFC revenue at Salt Lake City International Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 12, 2003, the FAA determined that the application, to impose and use the revenue from a PFC, submitted by the Salt Lake City Department of Airports, Salt Lake City, Utah, 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 May 13, 2003.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: October 31, 2003.

Proposed charge expiration date: May 31, 2004.

Total requested for use approval: $22,231,100.

Brief description of proposed project: Taxiway H Pavement Reconstruction (H2–H4); Runway 16L/34R Overlay; North Support Tunnel Road Rehabilitation; Taxiway P Extension; Security Improvement Projects; Terminal Unit 1 Bag Carousel Modifications; Terminal Access Road Reconfiguration; Maintenance/Airfield Equipment.

Class or classes of air carrier that the public agency has requested not be required to collect PFC's: all air taxi/commercial operators filing or required to file 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 Salt Lake City International Airport.

Issued in Renton, Washington on February 12, 2003.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 03–4328 Filed 2–24–03; 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–ILM To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Wilmington International Airport, Wilmington, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Wilmington International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before March 27, 2003.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, 1701 Columbia Avenue, Suite 2–260, College Park, GA 30337.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Jon W. Rosborough, Airport Director, of the New Hanover County Airport Authority at the following address: 1740 Airport Boulevard, Wilmington, NC 28405.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the New Hanover County Airport Authority under section 158.13 of part 158.

FOR FURTHER INFORMATION CONTACT: Tracie D. Kleine, Program Manager, Atlanta Airports District Office, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337 (404) 305–7148. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Wilmington International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 12, 2003, the FAA determined that the application to impose and use the revenue from a PFC submitted by New Hanover Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 21, 2003.

The following is a brief overview of the application.

PFC Application No.: 03–04–C–00–ILM.

Level of the proposed PFC: $4.50.

Proposed charge effective date: April 1, 2007.

Proposed charge expiration date: April 1, 2018.

Total estimated net PFC revenue: $12,985,648.

Brief description of proposed project(s):

Impose Only:

Install Instrument Landing System.

Impose and Use:

Rehabilitate Terminal; Construct New Customs Facility; Update Master Plan; Runway 35 Approach Clearing; PFC Administrative Costs; Rehabilitate Runway and Taxiway (Runway 6–24, Runway 17–35, Taxiway A, and Taxiway B); Land Acquisition; Construct Airfield Retention Pond; Construct De-icing Retention System.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Non-scheduled/on-demand air taxi 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.**

In addition, any person may, upon request, inspect the application, notice

and other documents germane to the application in person at the New Hanover County Airport Authority.

Issued in College Park, Georgia on February 12, 2003.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 03–4326 Filed 2–24–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Proposed Policy Statement No. ANE–2000–33.87–R3]

Policy for 14 CFR 33.87, Endurance Test

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 14 CFR 33.87, endurance test. This proposed policy would revise the current policy to provide guidance for demonstrating a 2-minute gas temperature limit within the 5-minute time limit associated with the takeoff power or thrust rating.

DATES: Comments must be received by April 30, 2003.

ADDRESSES: Send all comments on the proposed policy to the individual identified under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Karen Grant, FAA, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, MA 01803; e-mail: *karen.m.grant@faa.gov;* telephone; (781) 238–7119; 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 proposed policy statement would supersede FAA policy number 2000–33.87–R2, issued April 21, 2000. The intent of this proposed policy is to establish a uniform approach for Aircraft Certification Offices (ACOs) to evaluate and approve a 2-minute gas temperature limit caused by thermal mismatch of engine hardware or flight conditions during acceleration to takeoff power. The FAA has revised this policy to provide guidance for demonstrating a 2-minute gas temperature limit within the 5-minute time limit associated with the takeoff power or thrust rating. The proposed policy would not establish new requirements.

(Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.)

Issued in Burlington, Massachusetts, on February 12, 2003.

Francis A. Favara,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 03–4325 Filed 2–24–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement No. ANM–03–117–09]

Guidance for Demonstration of System, Hardware, and Software Development Assurance Levels on Transport Category Airplanes

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 on guidance for demonstration of software, hardware, and software development assurance levels on transport category airplanes.

DATES: Send your comments on or before March 27, 2003.

ADDRESSES: Address your comments to the individual identified under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Linh Le, Federal Aviation Administration, Transport Airplane Directorate, Transport Standards Staff, Safety Management Branch, ANM–117, 1601 Lind Avenue, SW., Renton, WA 98055–4056; telephone (425) 227–1105; fax (425) 227–1100; e-mail: *linh.le@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 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 No. ANM–03–117–09.''

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 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

The proposed policy clarifies FAA certification policy on determination of system development assurance levels, hardware design assurance levels, and software levels for transport category airplanes.

Issued in Renton, Washington, on February 13, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–4327 Filed 2–24–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2002–12423]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The FMCSA announces its decision to exempt Mr. Jerry W. Parker from the vision requirement in the Federal Motor Carrier Safety

Regulations (FMCSRs). The FMCSA is deferring its decision regarding Mr. Parker's qualification under the Federal alternative physical qualification standards for loss of limbs until he obtains a prosthetic device, becomes proficient in using the device, and completes the Skill Performance Evaluation (SPE) certification process. Although Mr. Parker is exempted from the vision requirements, he may not operate a commercial vehicle in interstate commerce until he meets the physical qualification standard for the loss of limbs, and this agency issues a SPE certificate.

DATES: February 25, 2003.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemption in this notice, you may contact Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: You may see all the comments online through the Document Management System (DMS) at: *http://dmses.dot.gov.*

Background

On August 22, 2002, the FMCSA published a notice of applications (67 FR 54525) requesting comments on Mr. Parker's request for an exemption from the Federal standards for vision at 49 CFR 391.41(b)(10) and for the loss of limbs at 49 CFR 391.41(b)(1). Mr. Parker does not meet the vision requirements because of severe vision loss in his right eye. He does not meet the physical qualification requirements for the loss of limbs as he is missing his left arm and is unable to demonstrate power grasp prehension and precision prehension with each upper limb separately. To operate in interstate commerce, Mr. Parker must be granted an exemption from the vision requirements and must be granted a skill performance evaluation (SPE) certificate.

Mr. Parker applied for a waiver from the vision requirements in 1996 under criteria established under the agency's former Vision Waiver Program. The criteria included a provision that vision waiver applicants must be otherwise medically qualified under all other physical qualification requirements at 49 CFR 391.41. When the agency discovered that Mr. Parker's left arm had been amputated at the shoulder, it denied his application for a vision waiver because the agency determined that there was insufficient evidence to determine if someone with both a vision impairment and amputation could safely operate a CMV.

Mr. Parker filed a petition for review with the United States Court of Appeals for the Sixth Circuit. The Sixth Circuit reversed the agency's denial, and remanded the case to the agency with instructions to create a functional capacity test consistent with FMCSA's findings that an individual's driving record is indicative of future performance which will evaluate Mr. Parker's driving skills based upon his individual capabilities (*Jerry W. Parker* v. *United States Department of Transportation,* 207 F. 3d 359 (6th Cir. 2000)). Mr. Parker's request for regulatory relief is discussed in detail in the August 22, 2002, notice (67 FR 54525).

In response to the Court's decision, the FMCSA has determined that Mr. Parker's request for a vision exemption will be considered on its own merits as outlined within the vision exemption program and the regulations found in 49 CFR part 381. Additionally, the FMCSA will evaluate Mr. Parker's amputation under the alternative physical qualification standards for the loss of limbs found in 49 CFR 391.41(b)(1) and 391.49. In other words, each impairment that would preclude Mr. Parker from complying with the physical qualification standards would be considered and evaluated separately under the agency's process for granting or denying the vision exemption application or SPE certificate.

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the agency to renew exemptions at the end of the 2-year period. Accordingly, the FMCSA has evaluated Mr. Parker's application for a vision exemption on its merits and made a determination to grant the exemption. The comment period closed on September 23, 2002. Seven comments were received, and their contents were carefully considered by the FMCSA in reaching the final decision to grant the exemption.

Although FMCSA is granting Mr. Parker a vision exemption, this does not allow Mr. Parker to drive in interstate commerce until he meets the alternative physical qualification standards for the loss of limbs and the use of a prosthetic device as outlined within 49 CFR 391.41(b)(1) and 391.49 (SPE certificate).

Deferring Decision on Mr. Parker Qualifying Under §§ 391.41(b)(1) and 391.49

With today's decision to grant a vision exemption, Mr. Parker is ''otherwise'' qualified to drive a commercial motor vehicle, when he meets the alternate physical qualification procedures under the SPE certification program. FMCSA is deferring making a decision regarding Mr. Parker's qualification under the Federal standards for loss of limbs until he obtains a prosthetic device, becomes proficient in using the device, and completes the SPE.

FMCSA has a SPE certification process that allows limb-amputee and limb-impairment CMV drivers to demonstrate, on an individual basis, their ability to operate safely the specific vehicle they intend to drive. Drivers must be able to demonstrate power grasp prehension (the ability to hold, clutch, clasp, or seize the steering wheel firmly) and precision prehension (the ability to effectively turn switches on and off and control other vehicle equipment while performing routine and emergency driver operations) with each upper limb separately (§ 391.49(d)(3)(i)(B)). Over the years, FMCSA has granted more than 2,000 SPE certificates to CMV drivers certifying their capability to operate legally and safely over the nation's highways.

Based on the information provided by Mr. Parker, he does not use a prosthetic device. Mr. Parker is missing his left arm and is unable to demonstrate power grasp prehension and precision prehension with each arm as required under the FMCSRs. Mr. Parker will need to obtain and wear a prosthetic or orthotic device, which enables him to demonstrate power grasp and precision prehension, and become proficient in using the device before we are able to proceed with the SPE certification process. Once Mr. Parker obtains a prosthetic device and can demonstrate power grasp prehension and precision prehension, FMCSA will provide him the opportunity to demonstrate, on an individual basis, his ability to operate safely the specific vehicle he intends to drive. This evaluation will include driving and non-driving safety related activities conducted by an Agency qualified SPE examiner.

Mr. Parker submitted to a road test conducted by a retired State Trooper. This individual is not certified under FMCSA's SPE program to administer an SPE evaluation, and that road test was not administered in accordance with the regulations found at 49 CFR 391.49.

Consequently, the FMCSA cannot accept the results of that test.

The FMCSRs provide a standard set of requirements for all CMV drivers who wish to, or who do operate in interstate commerce. The medical standard in 49 CFR 391.41(b)(1), or the alternative physical qualification standards for the loss of limbs found in 49 CFR 391.49, are based upon identified critical driving tasks associated with specific types of amputation or limb-impairments as outlined by the Krusen Center for Research and Engineering of the Moss Rehabilitation Hospital in Philadelphia, Pennsylvania. These standards were incorporated into the agency's regulations in 1985, and require a properly fitted and appropriate prosthesis, the demonstration of proficient use of the prosthesis, and the requirement of the use of the device while driving. Under existing Federal regulations, States may enforce safety regulations governing intrastate operations that vary from the Federal Motor Carrier Safety Regulations. The Motor Carrier Safety Assistance Program (49 CFR part 350) includes tolerance guidelines governing State oversight of intrastate commerce. Consistent with these requirements, the State of Ohio has adopted intrastate regulations governing commercial driver vision qualifications. Here, the FMCSA must assure all other States, in which Mr. Parker might operate, that he is fully qualified under the Federal regulations. We are unable to reach that conclusion at this time, but we stand ready to immediately proceed with the SPE evaluation process when Mr. Parker obtains a prosthesis and can demonstrate the adequate use of that device in accordance with the alternative physical qualification standards.

Vision and Driving Experience of the Applicant

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber (49 CFR 391.41(b)(10)).

Beginning in 1992, the Federal Highway Administration (FHWA) has undertaken studies to determine if this vision standard should be amended. The final report from our most recent vision medical panel recommends changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged. (*See* Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., ''Visual Requirements and Commercial Drivers,'' October 16, 1998, filed in the docket, FHWA–98–4334.) The panel's conclusion supported the FMCSA's (and previously the FHWA's) view that the present standard is reasonable and necessary as a general standard to ensure highway safety. The FMCSA also recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

Mr. Parker falls into this category. He is unable to meet the vision standard in his right eye because of a congenital eye condition known as Coats disease. However, he has corrected vision of 20/20 in his left eye and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. The doctor's opinion is supported by the applicant's possession of valid commercial driver's license (CDL) to operate CMVs in intrastate commerce. Before issuing CDLs, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate a CMV. Mr. Parker satisfied the testing standards for his State of residence. By meeting State licensing requirements, Mr. Parker demonstrated his ability to operate a commercial vehicle in intrastate, with his limited vision, to the satisfaction of his home State.

Possessing a valid CDL, Mr. Parker has been authorized to drive a CMV in intrastate commerce, even though his vision disqualifies him from driving in interstate commerce. He has driven CMVs with his limited vision for 17 years. In the past 3 years, he has had no accidents or convictions for traffic violations in a CMV.

Mr. Parker's qualifications, experience, and medical condition were stated and discussed in detail in the August 22, 2002, notice (67 FR 54525).

Basis for Exemption Determination

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if, by granting the exemption, it is likely that the level of safety will be equivalent to, or greater than, the level that would be achieved absent the issuance of such exemption. Although the FMCSA is granting Mr. Parker a vision exemption, this does not allow Mr. Parker to drive in interstate commerce. This is because he does not meet the medical standard in 49 CFR 391.41(b)(1), or the alternative physical qualification standards for the loss of limbs at 49 CFR 391.49.

To evaluate the effect of the exemption on safety, the FMCSA considered not only the medical report about the applicant's vision, but also his driving record and experience with the vision deficiency. To qualify for an exemption from the vision standard, the FMCSA requires a person to present verifiable evidence that he or she has driven a commercial vehicle safely with the vision deficiency for 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of accidents and traffic violations. Copies of the studies have been added to the docket. (FHWA–98–3637)

We believe we can properly apply the principle to monocular drivers, because data from the vision waiver program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (*See* 61 FR 13338, 13345, March 26, 1996.) The fact that experienced monocular drivers with good driving records in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to certain risks for two different time periods vary only slightly. (*See* Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting accident proneness from accident history coupled with other factors. These factors: ''such as age, sex, geographic location, mileage driven and conviction history'' are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual

experiencing future accidents. (*See* Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971.) A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to Mr. Parker's past 3-year record, we note that he has had no accidents or traffic violations in the last 3 years. He achieved this record of safety while driving with his vision impairment, demonstrating the likelihood that he has adapted his driving skills to accommodate his condition. As his ample driving history with his vision deficiency is a good predictor of future performance, the FMCSA concludes his ability to drive safely can be projected into the future.

We believe Mr. Parker's intrastate driving experience and history provide an adequate basis for predicting his ability to drive safely in interstate commerce with his vision impairment. While not providing the variety of driving conditions and varying climate and geographic conditions of interstate driving, intrastate driving does involve operating on the interstate system and other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions.

Mr. Parker has operated CMVs safely under those conditions for much longer than 3 years. The FMCSA finds that exempting Mr. Parker from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency will grant the exemption for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e) to Mr. Parker.

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FMCSA will impose requirements on Mr. Parker consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That Mr. Parker be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that he is otherwise physically qualified under 49 CFR 391.41; (2) that Mr. Parker provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that Mr. Parker provide a copy of the annual medical certification to his employer for retention in his driver's qualification file, or keep a copy in his driver's qualification file if he is self-employed. He must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

The FMCSA received seven comments in this proceeding. The comments were considered and are discussed below.

Of the seven comments, three were in favor of Mr. Parker receiving both exemptions. All three supporting commenters knew Mr. Parker on a personal level and expressed their feelings that Mr. Parker had worked hard and was a good and safe driver.

The other four comments were opposed to Mr. Parker receiving exemptions. One individual wrote that it is not responsible to consider each disability separately without considering them in total to determine an individual driver's ability to safely operate a CMV and that physical qualifications are necessary since the creation of a commercial driving simulator that would evaluate both normal and emergency driving of all types is not realistic.

The FMCSA has determined that Mr. Parker's request for exemptions to the qualification standards will be handled as separate applications for exemptions under existing procedures at 49 CFR part 381, or the SPE program (49 CFR 391.49), as appropriate.

A Driver Trainer/Accident Investigator for a school district wrote in favor of a denial of the exemption request based on the need to strictly enforce regulations for safety on the roads.

The FMCSA's first obligation is to keep our roadways safe. Our safety regulations have a single goal—to reduce the number of CMV crashes and fatalities on the Nation's highways. Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from a regulation, however, only if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.''

A medical examiner wrote that more information about the extent of the impairment of the right arm and why Mr. Parker does not wear prosthetics, and a skills performance examination are necessary to make a determination.

The FMCSA has since received information from a psychiatrist regarding the impairment of Mr. Parker's right arm. In a letter dated November 8, 2002, the psychiatrist notes: ''that based on my examination today, Jerry has no impairment of the right upper extremity.''

Advocates for Highway and Auto Safety (AHAS) expresses opposition to granting an exemption to Mr. Parker because: (1) There is no research on which to base a determination that an applicant with multiple impairments meets the statutory requirement for an exemption; (2) the FMCSA has no basis for granting an exemption for loss of limb to an individual who does not wear a prosthesis and (3) there is no basis for separately considering the two impairments.

AHAS opposes the granting of exemptions to a single applicant from multiple medical and physical requirements in the FMCSRs because there is no foundation in fact or medical research on which a safety determination can be made. AHAS also states that the FMCSA has presented no analysis and has not cited any research to support the granting of exemptions in this circumstance. They point out that in denying the applicant's earlier request for an exemption in 1996, the FMCSA's predecessor agency stated that it lacked evidence to determine if an individual with these impairments could safely operate a CMV. AHAS stated that FMCSA has presented no evidence to contradict the 1996 analysis.

AHAS further states that the requirement for a driver to be capable of demonstrating precision prehension and power grasp prehension in each upper limb is based on medical information. They claim that, in line with this requirement, a driver with an upper limb amputation or impairment must wear a properly fitted and appropriate prosthesis to safely operate a CMV. AHAS then states that there is no record in this notice presenting evidence to refute the prosthesis requirement.

AHAS avers that FMCSA has presented no information or evidence that addresses the potential interaction of the two impairments and its effect while driving a CMV. They claim that the lack of a prosthesis alone is a sufficient basis on which to deny the exemption request. The addition of poor vision is a factor that presents a more complex medical and safety condition.

The agency has no data to refute the requirement that a prosthesis must be used to properly and safely operate a CMV. Therefore, in today's decision the FMCSA has deferred Mr. Parker's request for a SPE certificate until he obtains a properly fitted prosthesis and demonstrates full use of that device in accordance with the alternative physical qualification standards for the loss of limbs. If Mr. Parker fails to obtain a properly fitted prosthesis the FMCSA will not issue the SPE certificate. While the FMCSA has no specific data to address the level of safety that can be achieved when an applicant has two impairments, the agency does have data that identifies the requirements needed to safely operate a CMV in interstate commerce with the vision deficiency in question, and with a properly fitted prosthesis. The FMCSA has determined that it is reasonable to use this known data to grant the vision exemption and defer a decision on the physical qualification issue (loss of limb).

Our response today is also guided by the Sixth Circuit's prior ruling in this matter. We believe that today's decision is consistent with the Court's remand and that the FMCSA is using a functional capacity test that is consistent with our prior findings that an individual's driving record is indicative of future performance and considers Mr. Parker's driving skills based upon his individual capabilities.

The FMCSA believes that its SPE certification process provides the agency with a functional capacity type test to evaluate Mr. Parker's individual capabilities. The SPE certification process allows limb-amputee and limb-impaired CMV drivers with good driving records to demonstrate, on an individual basis, their ability to operate safely the specific vehicle they intend to drive. This process is an assessment of the functional capabilities of the driver as they relate to the driver's ability to perform normal tasks associated with operating a CMV, and is based on the Amputee Driver Functional Matrix Chart (Krusen Study, 1977). The Matrix, formulated on the assumption that a prosthetic device is being worn by the amputee, identifies critical driving tasks associated with specific types of amputation or limb impairment and rates their difficulty given the specific handicap type. The SPE certification specialist reviews the functional capacities of the SPE applicant within the Matrix to focus on potential areas of difficulty, before administering an on-the-road test. Prior to the on-the-road evaluation, the process includes a review of the applicant's driving record for the last 3 years. Nonetheless, the FMCSA will continue to review this process and will examine ways to obtain funding to undertake a more extensive review of individuals with multiple impairments.

Conclusion

After considering the comments to the docket and based upon its evaluation of the vision exemption application, the FMCSA exempts Mr. Parker from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (1) That Mr. Parker be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that he is otherwise physically qualified under 49 CFR 391.41; (2) that Mr. Parker provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that Mr. Parker provide a copy of the annual medical certification to his employer for retention in his driver's qualification file, or keep a copy in his driver's qualification file if he is self-employed. He must also have a copy of the certification when driving, so it may be presented to a duly authorized Federal, State, or local enforcement official.

Although the FMCSA has granted Mr. Parker a vision exemption, this action does not allow Mr. Parker to drive in interstate commerce because he has not met the physical qualification requirements for the loss of limbs. Action on Mr. Parker's SPE certification is deferred.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) Mr. Parker fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, Mr. Parker may apply to the FMCSA for a renewal under procedures in effect at that time.

Issued on: February 23, 2003.

Pamela M. Pelcovits,

Acting Associate Administrator, Policy and Program Development.

[FR Doc. 03–4425 Filed 2–24–03; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2002–12334]

Inquiries Regarding Graduated Commercial Driver's Licensing; Qualifications, Testing and Licensing Standards

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Inquiry and request for comments.

SUMMARY: The FMCSA invites comments responding to a series of questions concerning the need for and potential benefits and costs of implementing a graduated commercial driver's license (GCDL) for commercial motor vehicle (CMV) drivers. This action is required by section 4019 of the Transportation Equity Act for the 21st Century (TEA–21). A graduated driver's license is a system designed to ease beginning drivers into the traffic environment under controlled exposure to progressively more difficult driving experiences. A graduated or provisional licensing system helps novice drivers improve their driving skills and helps them acquire on-the-road experience under less risky conditions by progressing, or graduating, through driver licensing stages before unrestricted licensure. FMCSA wants to determine if this concept can be successfully adapted to novice CMV drivers.

DATES: Send your comments on or before May 27, 2003.

ADDRESSES: You may mail or hand-deliver your comments to the Dockets Management System (DMS), U.S. Department of Transportation, Room Plaza–401, 400 Seventh Street, SW., Washington, DC 20590–0001. Make sure you include the docket number FMCSA–2002–12334 at the beginning of your comments. If you wish to receive confirmation that your comments were received, include a self-addressed, stamped envelope.

You may send your comments electronically to the DMS Web site at: *http://dms.dot.gov;* or you may fax them to (202) 493–2251. All comments are available for public viewing at the

Dockets Management facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Management facility is located on the Plaza Level of the Nassif Building at the above address. You may also view comments electronically at the DMS Web site, *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions on-line.

You may download a copy of this notice by using a computer, modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at (202) 512–1661. You can also get it through the **Federal Register** Web page at: *http://www.access.gpo.gov/nara.*

FOR FURTHER INFORMATION CONTACT: Mr. Robert Redmond, (202) 366–5014, State Programs Division (MC–ESS), Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; or e-mail *Robert.Redmond @fmcsa.dot.gov.* Office hours are from 8:15 a.m. to 4:45 p.m. e.t., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Background

Section 4019 of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, requires that the agency review the adequacy of the current commercial driver's license (CDL) testing process, make improvements and assess the merits of implementing a graduated commercial driver's license (GCDL).

What Is a Graduated Commercial Driver's License

The National Highway Traffic Safety Administration (NHTSA) describes the concept of a graduated driver's licensing as ''a system designed to ease beginning drivers into the traffic environment under controlled exposure to progressively more difficult driving experiences. This system helps improve their driving skills and helps them acquire on-the-road experience under less risky conditions by progressing, or graduating, through driver licensing stages before unrestricted licensure.'' FMCSA wants to determine if this concept can be successfully adapted to novice commercial motor vehicle (CMV) drivers.

Questionnaire Format

The following questions were designed to gauge how commercial vehicle drivers, industry groups, and government agencies involved in vehicle operation, regulation, and enforcement feel about a GCDL.

The FMCSA originally intended to distribute the questionnaire to a limited number of persons representing the affected commercial motor vehicle industry. However, it now has decided to expand participation in this study process to anyone with an interest in this important issue by publishing this notice of inquiry. In addition, the answers to these questions will help determine the best way to implement a GCDL, if the FMCSA finds it beneficial to motor carrier safety and industry efficiency.

This notice incorporates information obtained through a series of focus groups with truck and bus drivers, industry representatives, and enforcement and regulatory agency representatives. The focus groups indicated support for a GCDL as a means for improving commercial vehicle safety. These groups were divided, however, over whether drivers between 18 and 21 years of age should be eligible for a GCDL as a means for attracting new entrants into the field and increasing the pool of qualified drivers. Additional information, including the March 1, 1999 report, ''Designing a Graduated Commercial Driver's License, A Report on Focus Group Findings,'' Final Report, by the Science Applications International Corporation (SAIC), is available in the public docket for viewing and copying through the Docket Management System at: *http://dms.dot.gov.*

The 16 questions address issues considered important to the commercial vehicle community. Commenters may add narrative comments about the need for, benefits of, potential acceptance of, institutional barriers to, and practicality of a graduated commercial driver licensing system and the likely improvements in highway safety, employment opportunities, and transportation efficiency.

After data from the questions are compiled and evaluated, the FMCSA will present its results and conclusions in a final report on the potential benefits, costs and feasibility of implementing a graduated or provisional CDL program. The results will be used to evaluate the potential for pilot testing the graduated commercial driver's license (GCDL) concept.

The Questions

Please organize and identify your comments by question number. General comments on the GCDL concept and areas that you believe were not addressed in the questionnaire are also welcome.

Information About You

1. Please indicate your primary occupation(s) from the following list:

- Truck driver
- Owner-operator
- Motor coach/bus driver
- Fleet manager/owner
- Company safety director
- Transit system administrator
- Commercial driver trainer
- Motor carrier insurance provider
- Risk assessment specialist
- Labor union representative
- Public interest group
- Enforcement officer (motor carrier safety)
- Motor vehicle administrator (State driver's licenses
- Other

2. Do you think a graduated commercial driver's license (GCDL) is needed?

Regardless of your response to question number 2, please complete the rest of the questions so that we will know your preferences if a GCDL were to be pilot tested or implemented nationally.

Training

3. Should issuance of a GCDL be linked to enrollment in a commercial driving training program?

4. Should the curricula of a commercial driver training program meet widely-endorsed standards for a student to be eligible to receive a GCDL while in training?

5. Approximately how many months/years of entry level training and experience should new drivers receive before ''graduating'' to an unrestricted CDL?

Driving Record

6. Should an applicant's past driving record be considered in issuing a GCDL?

7. How many of each of the following types of motor vehicle accidents and convictions within the past 12 months should cause an applicant to be denied a GCDL?

- Passenger car or light truck motor vehicle accidents
- Traffic violations and citations
- DUI/DWI convictions
- Controlled substances convictions
- Reckless driving convictions
- Other convictions for motor vehicle traffic control violations

8. Should penalties for drivers holding a GCDL, who have at-fault accidents or moving violations, be more severe than those for drivers with an unrestricted CDL?

Driving Experience

9. How many months/years of passenger car or light truck driving

experience should an applicant have before being issued a GCDL?

Restrictions

10. Which of the following restrictions should apply to entry level drivers operating under a GCDL?

- Reduced hours of service
- Limitations on equipment type (*e.g.*, doubles/triples, tank vehicles, motor coaches, etc.)
- Limitations on types of cargo (*e.g.*, hazardous materials, livestock, liquids, etc.)
- Limitations on weather and visibility conditions (*e.g.*, ice, snow, fog, night driving)
- Limitations on geography or terrain features (*e.g.*, mountains)
- Limitations on distance or types of highways (*e.g.*, miles per day, interstate highways, etc.)
- Other

11. Should a fully licensed CDL driver be required to accompany and observe a driver with a GCDL? If yes, for how many weeks/months/years?

Age

12. What is the minimum age at which an applicant should be eligible to receive a Graduated CDL?

13. Assuming that training requirements are met, what is the minimum age at which the holder of a graduated CDL should be eligible to graduate to an unrestricted CDL?

Testing

14. How much testing (knowledge and road test) should be given to GCDL holders prior to issuing an unrestricted CDL?

- Single test to ''graduate'' to an unrestricted CDL
- Periodically while holding a GCDL until training is complete
- Initial test plus re-test at 1 year after receiving initial GCDL
- Other

Other Factors

15. What other factors do you feel must be addressed in the implementation of a graduated CDL program?

Costs

16. What costs would you or your organization anticipate incurring if a GCDL program is implemented?

Issued on: February 19, 2003.

Annette M. Sandberg,

Acting Administrator.

[FR Doc. 03–4410 Filed 2–24–03; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement

AGENCY: Maritime Administration, DOT.

ACTION: Notice of Voluntary Intermodal Sealift Agreement (VISA).

SUMMARY: The Maritime Administration (MARAD) announces the extension of the Voluntary Intermodal Sealift Agreement (VISA) for another two-year period until February 13, 2005, pursuant to provision of the Defense Production Act of 1950, as amended. The purpose of the VISA is to make intermodal shipping services/systems, including ships, ships' space, intermodal equipment and related management services, available to the Department of Defense as required to support the emergency deployment and sustainment of U.S. military forces. This is to be accomplished through cooperation among the maritime industry, the Department of Transportation and the Department of Defense.

FOR FURTHER INFORMATION CONTACT: Taylor E. Jones II, Director, Office of Sealift Support, Room 7304, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590, (202) 366–3423, Fax (202) 366–3128.

SUPPLEMENTARY INFORMATION: Section 708 of the Defense Production Act of 1950, as amended, (50 U.S.C. App. 2158), as implemented by regulations of the Federal Emergency Management Agency (44 CFR part 332), ''Voluntary agreements for preparedness programs and expansion of production capacity and supply'', authorizes the President, upon a finding that conditions exist which may pose a direct threat to the national defense or its preparedness programs, ''* * * to consult with representatives of industry, business, financing, agriculture, labor and other interests * * *'' in order to provide the making of such voluntary agreements. It further authorizes the President to delegate that authority to individuals who are appointed by and with the advice and consent of the Senate, upon the condition that such individuals obtain the prior approval of the Attorney General after the Attorney General's consultation with the Federal Trade Commission. Section 501 of Executive Order 12919, as amended, delegated this authority of the President to the Secretary of Transportation (Secretary), among others. By DOT Order 1900.8, the Secretary delegated to the Maritime Administrator the authority under which the VISA is sponsored. Through advance arrangements in joint planning, it is intended that participants in VISA will provide capacity to support a significant portion of surge and sustainment requirements in the deployment of U.S. military forces during war or other national emergency.

The text of the VISA was first published in the **Federal Register** on February 13, 1997, to be effective for a two-year term until February 13, 1999. The VISA document has been extended and subsequently published in the **Federal Register** every two years. The last extension was published on February 20, 2001. The text of the VISA herein is identical to the text previously published in the **Federal Register**.

The text published herein will now be implemented. Copies will be made available to the public upon request.

Text of the Voluntary Intermodal Sealift Agreement

Voluntary Intermodal Sealift Agreement (VISA)

9 December 1996

Table of Contents

Abbreviations
Definitions
Preface
I. Purpose
II. Authorities
  A. MARAD
  B. USTRANSCOM
III. General
  A. Concept
B. Responsibilities
C. Termination of Charter, Leases and Other Contractual Arrangements
D. Modification/Amendment of This Agreement
E. Administrative Expenses
F. Record Keeping
G. MARAD Reporting Requirements
IV. Joint Planning Advisory Group
V. Activation of VISA Contingency Provisions
  A. General
  B. Notification of Activation
  C. Voluntary Capacity
  D. Stage I
  E. Stage II
  F. Stage III
  G. Partial Activation
VI. Terms and Conditions
  A. Participation
  B. Agreement of Participant
  C. Effective Date and Duration of Participation
  D. Participant Termination of VISA
  E. Rules and Regulations
  F. Carrier Coordination Agreements
  G. Enrollment of Capacity (Ships and Equipment)
  H. War Risk Insurance
  I. Antitrust Defense
  J. Breach of Contract Defense
  K. Vessel Sharing Agreements
VII. Application and Agreement

Figure 1—VISA Activation Process Diagram

Abbreviations

''AMC''—Air Mobility Command.
''CCA''—Carrier Coordination Agreements.
''CDS''—Construction Differential Subsidy.
''CFR''—Code of Federal Regulations.
''CONOPS''—Concept of Operations.
''DoD''—Department of Defense.
''DOJ''—Department of Justice.
''DOT''—Department of Transportation.
''DPA''—Defense Production Act.
''EUSC''—Effective United States Control.
''FAR''—Federal Acquisition Regulations.
''FEMA''—Federal Emergency Management Agency.
''FTC''—Federal Trade Commission.
''JCS''—Joint Chiefs of Staff.
''JPAG''—Joint Planning Advisory Group.
''MARAD''—Maritime Administration, DOT.
''MSP''—Maritime Security Program.
''MSC''—Military Sealift Command.
''MTMC''—Military Transportation Management Command.
''NCA''—National Command Authorities.
''NDRF''—National Defense Reserve Fleet maintained by MARAD.
''ODS''—Operating Differential Subsidy.
''RRF''—Ready Reserve Force component of the NDRF.
''SecDef''—Secretary of Defense.
''SecTrans''—Secretary of Transportation.
''USCINCTRANS''—Commander in Chief, United States Transportation Command.
''USTRANSCOM''—United States Transportation Command (including its sealift transportation component, Military Sealift Command).
''VISA''—Voluntary Intermodal Sealift Agreement.
''VSA''—Vessel Sharing Agreement.

Definitions

For purposes of this agreement, the following definitions apply:

Administrator—Maritime Administrator.

Agreement—Agreement (proper noun) refers to the Voluntary Intermodal Sealift Agreement (VISA).

Attorney General—Attorney General of the United States.

Broker—A person who arranges for transportation of cargo for a fee.

Carrier Coordination Agreement (CCA)—An agreement between two or more Participants or between Participant and non-Participant carriers to coordinate their services in a Contingency, including agreements to: (i) Charter vessels or portions of the cargo-carrying capacity of vessels; (ii) share cargo handling equipment, chassis, containers and ancillary transportation equipment; (iii) share wharves, warehouse, marshaling yards and other marine terminal facilities; and (iv) coordinate the movement of vessels.

Chairman—FTC—Chairman of the Federal Trade Commission (FTC).

Charter—Any agreement or commitment by which the possession or services of a vessel are secured for a period of time, or for one or more voyages, whether or not a demise of the vessel.

Commercial—Transportation service provided for profit by privately owned (not government owned) vessels to a private or government shipper. The type of service may be either common carrier or contract carriage.

Contingency—Includes, but is not limited to a ''contingency operation'' as defined at 10 App. U.S.C. 101(a)(13), and a JCS-directed, NCA-approved action undertaken with military forces in response to: (i) Natural disasters; (ii) terrorists or subversive activities; or (iii) required military operations, whether or not there is a declaration of war or national emergency.

Contingency contracts—DoD contracts in which Participants implement advance commitments of capacity and services to be provided in the event of a Contingency.

Contract carrier—A for-hire carrier who does not hold out regular service to the general public, but instead contracts, for agreed compensation, with a particular shipper for the carriage of cargo in all or a particular part of a ship for a specified period of time or on a specified voyage or voyages.

Controlling interest—More than a 50-percent interest by stock ownership.

Director—FEMA—Director of Federal Emergency Management Agency (FEMA).

Effective U.S. Control (EUSC)—U.S. citizen-owned ships which are registered in certain open registry countries and which the United States can rely upon for defense in national security emergencies. The term has no legal or other formal significance. U.S. citizen-owned ships registered in Liberia, Panama, Honduras, the Bahamas and the Republic of the Marshall Islands are considered under effective U.S. control. EUSC registries are recognized by the Maritime Administration after consultation with the Department of Defense. (MARAD OPLAN 001A, 17 July 1990)

Enrollment Contract—The document, executed and signed by MSC, and the individual carrier enrolling that carrier into VISA Stage III.

Foreign flag vessel—A vessel registered or documented under the law of a country other than the United States of America.

Intermodal equipment—Containers (including specialized equipment), chassis, trailers, tractors, cranes and other materiel handling equipment, as well as other ancillary items.

Liner—Type of service offered on a definite, advertised schedule and giving relatively frequent sailings at regular intervals between specific ports or ranges.

Liner throughput capacity—The system/intermodal capacity available and committed, used or unused, depending on the system cycle time necessary to move the designated capacity through to destination. Liner throughput capacity shall be calculated as: static capacity (outbound from CONUS) X voyage frequency X.5.

Management services—Management expertise and experience, intermodal terminal management, information resources, and control and tracking systems.

Ocean Common carrier—An entity holding itself out to the general public to provide transportation by water of passengers or cargo for compensation; which assumes responsibility for transportation from port or point of receipt to port or point of destination; and which operates and utilizes a vessel operating on the high seas for all or part of that transportation. (As defined in 46 App. U.S.C. 1702, 801, and 842 regarding international, interstate, and intercoastal commerce respectively.)

Operator—An ocean common carrier or contract carrier that owns or controls or manages vessels by which ocean transportation is provided.

Organic sealift—Ships considered to be under government control or long-term charter—Fast Sealift Ships, Ready Reserve Force and commercial ships under long-term charter to DoD.

Participant—A signatory party to VISA, and otherwise as defined within Section VI of this document.

Person—Includes individuals and corporations, partnerships, and associations existing under or authorized by the laws of the United States or any state, territory, district, or possession thereof, or of a foreign country.

SecTrans—Secretary of Transportation.

Service contract—A contract between a shipper (or a shipper's association) and an ocean common carrier (or

conference) in which the shipper makes a commitment to provide a certain minimum quantity of cargo or freight revenue over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule, as well as a defined service level (such as assured space, transit time, port rotation, or similar service features), as defined in the Shipping Act of 1984. The contract may also specify provisions in the event of nonperformance on the part of either party.

Standby period—The interval between the effective date of a Participant's acceptance into the Agreement and the activation of any stage, and the periods between deactivation of all stages and any later activation of any stage.

U.S. Flag Vessel—A vessel registered or documented under the laws of the United States of America.

USTRANSCOM—The United States Transportation Command and its component commands (AMC, MSC and MTMC).

Vessel Sharing Agreement (VSA) Capacity—Space chartered to a Participant for carriage of cargo, under its commercial contracts, service contracts or in common carriage, aboard vessels shared with another carrier or carriers pursuant to a commercial vessel sharing agreement under which the carriers may compete with each other for the carriage of cargo. In U.S. foreign trades the agreement is filed with the Federal Maritime Commission (FMC) in conformity with the Shipping Act of 1984 and implementing regulations.

Volunteers—Any vessel owner/operator who is an ocean carrier and who offers to make capacity, resources or systems available to support contingency requirements.

Preface

The Administrator, pursuant to the authority contained in section 708 of the Defense Production Act of 1950, as amended (50 App. U.S.C. 2158)(section 708)(DPA), in cooperation with the Department of Defense (DoD), has developed this Agreement [hereafter called the Voluntary Intermodal Sealift Agreement (VISA)] to provide DoD the commercial sealift and intermodal shipping services/systems necessary to meet national defense Contingency requirements.

USTRANSCOM procures commercial shipping capacity to meet requirements for ships and intermodal shipping services/systems through arrangements with common carriers, with contract carriers and by charter. DoD (through USTRANSCOM) and Department of Transportation (DOT) (through MARAD) maintain and operate a fleet of ships owned by or under charter to the Federal Government to meet the logistic needs of the military services which cannot be met by existing commercial service. Ships of the Ready Reserve Force (RRF) are selectively activated for peacetime military tests and exercises, and to satisfy military operational requirements which cannot be met by commercial shipping in time of war, national emergency, or military Contingency. Foreign-flag shipping is used in accordance with applicable laws, regulations and policies.

The objective of VISA is to provide DoD a coordinated, seamless transition from peacetime to wartime for the acquisition of commercial sealift and intermodal capability to augment DoD's organic sealift capabilities. This Agreement establishes the terms, conditions and general procedures by which persons or parties may become VISA Participants. Through advance joint planning among USTRANSCOM, MARAD and the Participants, Participants may provide predetermined capacity in designated stages to support DoD Contingency requirements.

VISA is designed to create close working relationships among MARAD, USTRANSCOM and Participants through which Contingency needs and the needs of the civil economy can be met by cooperative action. During Contingencies, Participants are afforded maximum flexibility to adjust commercial operations by Carrier Coordination Agreements (CCA), in accordance with applicable law.

Participants will be afforded the first opportunity to meet DoD peacetime and Contingency sealift requirements within applicable law and regulations, to the extent that operational requirements are met. In the event VISA Participants are unable to fully meet Contingency requirements, the shipping capacity made available under VISA may be supplemented by ships/capacity from non-Participants in accordance with applicable law and by ships requisitioned under section 902 of the Merchant Marine Act, 1936 (as amended) (46 App. U.S.C. 1242). In addition, containers and chassis made available under VISA may be supplemented by services and equipment acquired by USTRANSCOM or accessed by the Administrator through the provisions of 46 CFR part 340.

The Secretary of Defense (SecDef) has approved VISA as a sealift readiness program for the purpose of section 909 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1248).

I. Purpose

A. The Administrator has made a determination, in accordance with section 708(c)(1) of the Defense Production Act (DPA) of 1950, that conditions exist which may pose a direct threat to the national defense of the United States or its preparedness programs and, under the provisions of section 708, has certified to the Attorney General that a standby agreement for utilization of intermodal shipping services/systems is necessary for the national defense. The Attorney General, in consultation with the Chairman of the Federal Trade Commission, has issued a finding that dry cargo shipping capacity to meet national defense requirements cannot be provided by the industry through a voluntary agreement having less anticompetitive effects or without a voluntary agreement.

B. The purpose of VISA is to provide a responsive transition from peace to Contingency operations through pre-coordinated agreements for sealift capacity to support DoD Contingency requirements. VISA establishes procedures for the commitment of intermodal shipping services/systems to satisfy such requirements. VISA will change from standby to active status upon activation by appropriate authority of any of the Stages, as described in Section V.

C. It is intended that VISA promote and facilitate DoD's use of existing commercial transportation resources and integrated intermodal transportation systems, in a manner which minimizes disruption to commercial operations, whenever possible.

D. Participants' capacity which may be committed pursuant to this Agreement may include all intermodal shipping services/systems and all ship types, including container, partial container, container/bulk, container/roll-on/roll-off, roll-on/roll-off (of all varieties), breakbulk ships, tug and barge combinations, and barge carrier (LASH, SeaBee).

II. Authorities

A. MARAD

1. Sections 101 and 708 of the DPA, as amended (50 App. U.S.C. 2158); Executive Order 12919, 59 FR 29525, June 7, 1994; Executive Order 12148, 3 CFR 1979 Comp., p. 412, as amended; 44 CFR part 332; DOT Order 1900.8; 46 CFR part 340.

2. Section 501 of Executive Order 12919, as amended, delegated the authority of the President under section 708 to SecTrans, among others. By DOT Order 1900.8, SecTrans delegated to the

Administrator the authority under which VISA is sponsored.

B. USTRANSCOM

1. Section 113 and Chapter 6 of Title 10 of the United States Code.

2. DoD Directive 5158.4 designating USCINCTRANS to provide air, land, and sea transportation for the DoD.

III. General

A. Concept

1. VISA provides for the staged, time-phased availability of Participants' shipping services/systems to meet NCA-directed DoD Contingency requirements in the most demanding defense oriented sealift emergencies and for less demanding defense oriented situations through prenegotiated Contingency contracts between the government and Participants (see Figure 1). Such arrangements will be jointly planned with MARAD, USTRANSCOM, and Participants in peacetime to allow effective, and efficient and best valued use of commercial sealift capacity, provide DoD assured Contingency access, and minimize commercial disruption, whenever possible.

a. Stages I and II provide for prenegotiated contracts between the DoD and Participants to provide sealift capacity against all projected DoD Contingency requirements. These agreements will be executed in accordance with approved DoD contracting methodologies.

b. Stage III will provide for additional capacity to the DoD when Stages I and II commitments or volunteered capacity are insufficient to meet Contingency requirements, and adequate shipping services from non-Participants are not available through established DoD contracting practices or U.S. Government treaty agreements.

2. Activation will be in accordance with procedures outlined in Section V of this Agreement.

3. Following is the prioritized order for utilization of commercial sealift capacity to meet DoD peacetime and Contingency requirements:

a. U.S. Flag vessel capacity operated by a Participant and U.S. Flag Vessel Sharing Agreement (VSA) capacity of a Participant.

b. U.S. Flag vessel capacity operated by a non-Participant.

c. Combination U.S./foreign flag vessel capacity operated by a Participant and combination U.S./foreign flag VSA capacity of a Participant.

d. Combination U.S./foreign flag vessel capacity operated by a non-Participant.

e. U.S. owned or operated foreign flag vessel capacity and VSA capacity of a Participant.

f. U.S. owned or operated foreign flag vessel capacity and VSA capacity of a non-Participant.

g. Foreign-owned or operated foreign flag vessel capacity of a non-Participant.

4. Under Section VI.F. of this Agreement, Participants may implement CCAs to fulfill their contractual commitments to meet VISA requirements.

B. Responsibilities

1. The SecDef, through USTRANSCOM, shall:

a. Define time-phased requirements for Contingency sealift capacity and resources required in Stages I, II and III to augment DoD sealift resources.

b. Keep MARAD and Participants apprised of Contingency sealift capacity required and resources committed to Stages I and II.

c. Obtain Contingency sealift capacity through the implementation of specific prenegotiated DoD Contingency contracts with Participants.

d. Notify the Administrator upon activation of any stage of VISA.

e. Co-chair (with MARAD) the Joint Planning Advisory Group (JPAG).

f. Establish procedures, in accordance with applicable law and regulation, providing Participants with necessary determinations for use of foreign flag vessels to replace an equivalent U.S. Flag capacity to transport a Participant's normal peacetime DoD cargo, when Participant's U.S. Flag assets are removed from regular service to meet VISA Contingency requirements.

g. Provide a reasonable time to permit an orderly return of a Participant's vessel(s) to its regular schedule and termination of its foreign flag capacity arrangements as determined through coordination between DoD and the Participants.

h. Review and endorse Participants' requests to MARAD for use of foreign flag replacement capacity for non-DoD government cargo, when U.S. Flag capacity is required to meet Contingency requirements.

2. The SecTrans, through MARAD, shall:

a. Review the amount of sealift resources committed in DoD contracts to Stages I and II and notify USTRANSCOM if a particular level of VISA commitment will have serious adverse impact on the commercial sealift industry's ability to provide essential services. MARAD's analysis shall be based on the consideration that all VISA Stage I and II capacity committed will be activated. This notification will occur on an annual basis upon USCINCTRANS' acceptance of VISA commitments from the Participants. If so advised by MARAD, USTRANSCOM will adjust the size of the stages or provide MARAD with justification for maintaining the size of those stages. USTRANSCOM and MARAD will coordinate to ensure that the amount of sealift assets committed to Stages I and II will not have an adverse, national economic impact.

b. Coordinate with DOJ for the expedited approval of CCAs.

c. Upon request by USCINCTRANS and approval by SecDef to activate Stage III, allocate sealift capacity and intermodal assets to meet DoD Contingency requirements. DoD shall have priority consideration in any allocation situation.

d. Establish procedures, pursuant to section 653(d) of the Maritime Security Act (MSA), for determinations regarding the equivalency and duration of the use of foreign flag vessels to replace U.S. Flag vessel capacity to transport the cargo of a Participant which has entered into an operating agreement under section 652 of the MSA and whose U.S. Flag vessel capacity has been removed from regular service to meet VISA contingency requirements. Such foreign flag vessels shall be eligible to transport cargo subject to the Cargo Preference Act of 1904 (10 U.S.C. 2631), P.R. 17 (46 App. U.S.C. 1241–1), and Pub. L. 664 (46 App. U.S.C. 1241(b)). However, any procedures regarding the use of such foreign flag vessels to transport cargo subject to the Cargo Preference Act of 1904 must have the concurrence of USTRANSCOM before it becomes effective.

e. Co-chair (with USTRANSCOM) the JPAG.

f. Seek necessary Jones Act waivers as required. To the extent feasible, participants with Jones Act vessels or vessel capacity will use CCAs or other arrangements to protect their ability to maintain services for their commercial customers and to fulfill their commercial peacetime commitments with U.S. Flag vessels. In situations where the activation of this Agreement deprives a Participant of all or a portion of its Jones Act vessels or vessel capacity and, at the same time, creates a general shortage of Jones Act vessel(s) or vessel capacity on the market, the Administrator may request that the Secretary of the Treasury grant a temporary waiver of the provisions of the Jones Act to permit a Participant to charter or otherwise utilize non-Jones Act vessel(s) or vessel capacity, with priority consideration recommended for U.S. crewed vessel(s) or vessel capacity.

The vessel(s) or vessel capacity for which such waivers are requested will be approximately equal to the Jones Act vessel(s) or vessel capacity chartered or under contract to the DoD, and any waiver that may be granted will be effective for the period that the Jones Act vessel(s) or vessel capacity is on charter or under contract to the DoD plus a reasonable time for termination of the replacement charters as determined by the Administrator.

C. Termination of Charters, Leases and Other Contractual Arrangements

1. USTRANSCOM will notify the Administrator as soon as possible of the prospective termination of charters, leases, management service contracts or other contractual arrangements made by the DoD under this Agreement.

2. In the event of general requisitioning of ships under 46 App. U.S.C. 1242, the Administrator shall consider commitments made with the DoD under this Agreement.

D. Modification/Amendment of This Agreement

1. The Attorney General may modify this Agreement, in writing, after consultation with the Chairman-FTC, SecTrans, through his representative MARAD, and SecDef, through his representative USCINCTRANS. Although Participants may withdraw from this Agreement pursuant to Section VI.D, they remain subject to VISA as amended or modified until such withdrawal.

2. The Administrator, USCINCTRANS and Participants may modify this Agreement at any time by mutual agreement, but only in writing with the approval of the Attorney General and the Chairman-FTC.

3. Participants may propose amendments to this Agreement at any time.

E. Administrative Expenses—Administrative and Out-of-Pocket Expenses Incurred by a Participant Shall Be Borne Solely by the Participant

F. Record Keeping

1. MARAD has primary responsibility for maintaining carrier VISA application records in connection with this Agreement. Records will be maintained in accordance with MARAD Regulations. Once a carrier is selected as a VISA Participant, a copy of the VISA application form will be forwarded to USTRANSCOM.

2. In accordance with 44 CFR 332.2(c), MARAD is responsible for the making and record maintenance of a full and verbatim transcript of each JPAG meeting. MARAD shall send this transcript, and any voluntary agreement resulting from the meeting, to the Attorney General, the Chairman—FTC, the Director—FEMA, any other party or repository required by law and to Participants upon their request.

3. USTRANSCOM shall be the official custodian of records related to the contracts to be used under this Agreement, to include specific information on enrollment of a Participant's capacity in VISA.

4. In accordance with 44 CFR 332.3(d), a Participant shall maintain for five (5) years all minutes of meetings, transcripts, records, documents and other data, including any communications with other Participants or with any other member of the industry or their representatives, related to the administration, including planning related to and implementation of Stage activations of this Agreement. Each Participant agrees to make such records available to the Administrator, USCINCTRANS, the Attorney General, and the Chairman—FTC for inspection and copying at reasonable times and upon reasonable notice. Any record maintained by MARAD or USTRANSCOM pursuant to paragraphs 1, 2, or 3 of this subsection shall be available for public inspection and copying unless exempted on the grounds specified in 5 U.S.C 552(b) or identified as privileged and confidential information in accordance with section 708(e).

G. MARAD Reporting Requirements—MARAD Shall Report to the Director-FEMA, as Required, on the Status and Use of This Agreement

IV. Joint Planning Advisory Group

A. The JPAG provides USTRANSCOM, MARAD and VISA Participants a planning forum to:

1. Analyze DoD Contingency sealift/intermodal service and resource requirements.

2. Identify commercial sealift capacity that may be used to meet DoD requirements, related to Contingencies and, as requested by USTRANSCOM, exercises and special movements.

3. Develop and recommend Concepts of Operations (CONOPS) to meet DoD-approved Contingency requirements and, as requested by USTRANSCOM, exercises and special movements.

B. The JPAG will be co-chaired by MARAD and USTRANSCOM, and will convene as jointly determined by the co-chairs.

C. The JPAG will consist of designated representatives from MARAD, USTRANSCOM, each Participant, and maritime labor. Other attendees may be invited at the discretion of the co-chairs as necessary to meet JPAG requirements. Representatives will provide technical advice and support to ensure maximum coordination, efficiency and effectiveness in the use of Participants' resources. All Participants will be invited to all open JPAG meetings. For selected JPAG meetings, attendance may be limited to designated Participants to meet specific operational requirements.

1. The co-chairs may establish working groups within JPAG. Participants may be assigned to working groups as necessary to develop specific CONOPS.

2. Each working group will be co-chaired by representatives designated by MARAD and USTRANSCOM.

D. The JPAG will not be used for contract negotiations and/or contract discussions between carriers and the DoD; such negotiations and/or discussions will be in accordance with applicable DoD contracting policies and procedures.

E. The JPAG co-chairs shall:

1. Notify the Attorney General, the Chairman—FTC, Participants and the maritime labor representative of the time, place and nature of each JPAG meeting.

2. Provide for publication in the **Federal Register** of a notice of the time, place and nature of each JPAG meeting. If the meeting is open, a **Federal Register** notice will be published reasonably in advance of the meeting. If a meeting is closed, a **Federal Register** notice will be published within ten (10) days after the meeting and will include the reasons for closing the meeting.

3. Establish the agenda for each JPAG meeting and be responsible for adherence to the agenda.

4. Provide for a full and complete transcript or other record of each meeting and provide one copy each of transcript or other record to the Attorney General, the Chairman-FTC, and to Participants, upon request.

F. Security Measures—The co-chairs will develop and coordinate appropriate security measures so that Contingency planning information can be shared with Participants to enable them to plan their commitments.

V. Activation of VISA Contingency Provisions

A. General

VISA may be activated at the request of USCINCTRANS, with approval of SecDef, as needed to support Contingency operations. Activating voluntary commitments of capacity to support such operations will be in

accordance with prenegotiated Contingency contracts between DoD and Participants.

B. Notification of Activation

1. USCINCTRANS will notify the Administrator of the activation of Stages I, II, and III.

2. The Administrator shall notify the Attorney General and the Chairman-FTC when it has been determined by DoD that activation of any Stage of VISA is necessary to meet DoD Contingency requirements.

C. Voluntary Capacity

1. Throughout the activation of any Stages of this Agreement, DoD may utilize voluntary commitment of sealift capacity or systems.

2. Requests for volunteer capacity will be extended simultaneously to both Participants and other carriers. First priority for utilization will be given to Participants who have signed Stage I and/or II contracts and are capable of meeting the operational requirements. Participants providing voluntary capacity may request USTRANSCOM to activate their prenegotiated Contingency contracts; to the maximum extent possible, USTRANSCOM, where appropriate, shall support such requests. Volunteered capacity will be credited against Participants' staged commitments, in the event such stages are subsequently activated.

3. In the event Participants are unable to fully meet Contingency requirements, or do not voluntarily offer to provide the required capacity, the shipping capacity made available under VISA may be supplemented by ships/capacity from non-Participants.

4. When voluntary capacity does not meet DoD Contingency requirements, DoD will activate the VISA stages as necessary.

D. Stage I

1. Stage I will be activated in whole or in part by USCINCTRANS, with approval of SecDef, when voluntary capacity commitments are insufficient to meet DoD Contingency requirements. USCINCTRANS will notify the Administrator upon activation.

2. USTRANSCOM will implement Stage I Contingency contracts as needed to meet operational requirements.

E. Stage II

1. Stage II will be activated, in whole or in part, when Contingency requirements exceed the capability of Stage I and/or voluntarily committed resources.

2. Stage II will be activated by USCINCTRANS, with approval of SecDef, following the same procedures discussed in paragraph D above.

F. Stage III

1. Stage III will be activated, in whole or in part, when Contingency requirements exceed the capability of Stages I and II, and other shipping services are not available. This stage involves DoD use of capacity and vessels operated by Participants which will be furnished to DoD when required in accordance with this Agreement. The capacity and vessels are allocated by MARAD on behalf of SecTrans to USCINCTRANS.

2. Stage III will be activated by USCINCTRANS upon approval by SecDef. Upon activation, DoD SecDef will request SecTrans to allocate sealift capacity based on DoD requirements, in accordance with Title 1 of DPA, to meet the Contingency requirement. All Participants' capacity committed to VISA is subject to use during Stage III.

3. Upon allocation of sealift assets by SecTrans, through its designated representative MARAD, USTRANSCOM will negotiate and execute Contingency contracts with Participants, using pre-approved rate methodologies as established jointly by SecTrans and SecDef in fulfillment of section 653 of the Maritime Security Act of 1996. Until execution of such contract, the Participant agrees that the assets remain subject to the provisions of section 902 of the Merchant Marine Act of 1936, Title 46 App. U.S.C. 1242.

4. Simultaneously with activation of Stage III, the DoD Sealift Readiness Program (SRP) will be activated for those carriers still under obligation to that program.

G. Partial Activation

As used in this Section V, activation ''in part'' of any Stage under this Agreement shall mean one of the following:

1. Activation of only a portion of the committed capacity of some, but not all, of the Participants in any Stage that is activated; or

2. Activation of the entire committed capacity of some, but not all, of the Participants in any Stage that is activated; or

3. Activation of only a portion of the entire committed capacity of all of the Participants in any Stage that is activated.

VI. Terms and Conditions

A. Participation

1. Any U.S. Flag vessel operator organized under the laws of a State of the United States, or the District of Columbia, may become a ''Participant'' in this Agreement by submitting an executed copy of the form referenced in Section VII, and by entering into a VISA Enrollment Contract with DoD which establishes a legal obligation to perform and which specifies payment or payment methodology for all services rendered.

2. The term ''Participant'' includes the entity described in VI.A.1 above, and all United States subsidiaries and affiliates of the entity which own, operate, charter or lease ships and intermodal equipment in the regular course of their business and in which the entity holds a controlling interest.

3. Upon request of the entity executing the form referenced in Section VII, the term ''Participant'' may include the controlled non-domestic subsidiaries and affiliates of such entity signing this Agreement, provided that the Administrator, in coordination with USCINCTRANS, grants specific approval for their inclusion.

4. Any entity receiving payments under the Maritime Security Program (MSP), pursuant to the Maritime Security Act of 1996 (MSA) (Pub. L. 104–239), shall become a ''Participant'' with respect to all vessels enrolled in MSP at all times until the date the MSP operating agreement would have terminated according to its original terms. The MSP operator shall be enrolled in VISA as a Stage III Participant, at a minimum. Such participation will satisfy the requirement for an MSP participant to be enrolled in an emergency preparedness program approved by SecDef as provided in section 653 of the MSA.

5. A Participant shall be subject only to the provisions of this Agreement and not to the provisions of the SRP.

6. MARAD shall publish periodically in the **Federal Register** a list of Participants.

B. Agreement of Participant

1. Each Participant agrees to provide commercial sealift and/or intermodal shipping services/systems in accordance with DoD Contingency contracts. USTRANSCOM will review and approve each Participant's commitment to ensure it meets DoD Contingency requirements. A Participant's capacity commitment to Stages I and II will be one of the considerations in determining the level of DoD peacetime contracts awarded with the exception of Jones Act capacity (as discussed in paragraph 4 below).

2. DoD may also enter into Contingency contracts, not linked to peacetime contract commitments, with

Participants, as required to meet Stage I and II requirements.

3. Commitment of Participants' resources to VISA is as follows:

a. *Stage III:* A carrier desiring to participate in DoD peacetime contracts/traffic must commit no less than 50% of its total U.S. Flag capacity into Stage III. Carriers receiving DOT payments under the MSP, or carriers subject to section 909 of Merchant Marine Act of 1936, as amended, that are not enrolled in the SRP will have vessels receiving such assistance enrolled in Stage III. Participants' capacity under charter to DoD will be considered ''organic'' to DoD, and does not count towards the Participant's Contingency commitment during the period of the charter. Participants utilized under Stage III activation will be compensated based upon a DoD pre-approved rate methodology.

b. *Stages I and II:* DoD will annually develop and publish minimum commitment requirements for Stages I and II. Normally, the awarding of a long-term (*i.e.*, one year or longer) DoD contract, exclusive of charters, will include the annual predesignated minimum commitment to Stages I and/or II. Participants desiring to bid on DoD peacetime contracts will be required to provide commitment levels to meet DoD-established Stage I and/or II minimums on an annual basis. Participants may gain additional consideration for peacetime contract cargo allocation awards by committing capacity to Stages I and II beyond the specified minimums. If the Participant is awarded a contract reflecting such a commitment, that commitment shall become the actual amount of a Participant's U.S. Flag capacity commitment to Stages I and II. A Participant's Stage III U.S. Flag capacity commitment shall represent its total minimum VISA commitment. That Participant's Stage I and II capacity commitments as well as any volunteer capacity contribution by Participant are portions of Participant's total VISA commitment. Participants activated during Stages I and II will be compensated in accordance with prenegotiated Contingency contracts.

4. Participants exclusively operating vessels engaged in domestic trades will be required to commit 50% of that capacity to Stage III. Such Participants will not be required to commit capacity to Stages I and II as a consideration of domestic peacetime traffic and/or contract award. However, such Participants may voluntarily agree to commit capacity to Stages I and/or II.

5. The Participant owning, operating, or controlling an activated ship or ship capacity will provide intermodal equipment and management services needed to utilize the ship and equipment at not less than the Participant's normal efficiency, in accordance with the prenegotiated Contingency contracts implementing this Agreement.

C. Effective Date and Duration of Participation

1. Participation in this Agreement is effective upon execution by MARAD of the submitted form referenced in section VII, and approval by USTRANSCOM by execution of an Enrollment Contract, for Stage III, at a minimum.

2. VISA participation remains in effect until the Participant terminates the Agreement in accordance with paragraph D below, or termination of the Agreement in accordance with 44 CFR 332.4. Notwithstanding termination of VISA or participation in VISA, obligations pursuant to executed DoD peacetime contracts shall remain in effect for the term of such contracts and are subject to all terms and conditions thereof.

D. Participant Termination of VISA

1. Except as provided in paragraph 2 below, a Participant may terminate its participation in VISA upon written notice to the Administrator. Such termination shall become effective 30 days after written notice is received, unless obligations incurred under VISA by virtue of activation of any Contingency contract cannot be fulfilled prior to the termination date, in which case the Participant shall be required to complete the performance of such obligations. Voluntary termination by a carrier of its VISA participation shall not act to terminate or otherwise mitigate any separate contractual commitment entered into with DoD.

2. A Participant having an MSP operating agreement with SecTrans shall not withdraw from this Agreement at any time during the original term of the MSP operating agreement.

3. A Participant's withdrawal, or termination of this Agreement, will not deprive a Participant of an antitrust defense otherwise available to it in accordance with DPA section 708 for the fulfillment of obligations incurred prior to withdrawal or termination.

4. A Participant otherwise subject to the DoD SRP that voluntarily withdraws from this Agreement will become subject again to the DoD SRP.

E. Rules and Regulations

Each Participant acknowledges and agrees to abide by all provisions of DPA section 708, and regulations related thereto which are promulgated by the Secretary, the Attorney General, and the Chairman-FTC. Standards and procedures pertaining to voluntary agreements have been promulgated in 44 CFR part 332. 46 CFR part 340 establishes procedures for assigning the priority for use and the allocation of shipping services, containers and chassis. The JPAG will inform Participants of new and amended rules and regulations as they are issued in accordance with law and administrative due process. Although Participants may withdraw from VISA, they remain subject to all authorized rules and regulations while in Participant status.

F. Carrier Coordination Agreements (CCA)

1. When any Stage of VISA is activated or when DoD has requested volunteer capacity pursuant to Section V.B. of VISA, Participants may implement approved CCAs to meet the needs of the DoD and to minimize the disruption of their services to the civil economy.

2. A CCA for which the parties seek the benefit of section 708(j) of the DPA shall be identified as such and shall be submitted to the Administrator for approval and certification in accordance with section 708(f)(1)(A) of the DPA. Upon approval and certification, the Administrator shall transmit the Agreement to the Attorney General for a finding in accordance with section 708(f)(1)(B) of the DPA. Parties to approved CCAs may avail themselves of the antitrust defenses set forth in section 708(j) of the DPA. Nothing in VISA precludes Participants from engaging in lawful conduct (including carrier coordination activities) that lies outside the scope of an approved Carrier Coordination Agreement; but antitrust defenses will not be available pursuant to section 708(j) of the DPA for such conduct.

3. Participants may seek approval for CCAs at any time.

G. Enrollment of Capacity (Ships and Equipment)

1. A list identifying the ships/capacity and intermodal equipment committed by a Participant to each Stage of VISA will be prepared by the Participant and submitted to USTRANSCOM within seven days after a carrier has become a Participant. USTRANSCOM will maintain a record of all such commitments. Participants will notify USTRANSCOM of any changes not later than seven days prior to the change.

2. USTRANSCOM will provide a copy of each Participant's VISA commitment data and all changes to MARAD.

3. Information which a Participant identifies as privileged or business confidential/proprietary data shall be withheld from public disclosure in accordance with section 708(h)(3) and section 705(e) of the DPA, 5 App. U.S.C. 552(b), and 44 CFR part 332.

4. Enrolled ships are required to comply with 46 CFR part 307, Establishment of Mandatory Position Reporting System for Vessels.

H. War Risk Insurance

1. Where commercial war risk insurance is not available on reasonable terms and conditions, DOT shall provide non-premium government war risk insurance, subject to the provisions of section 1205 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1285(a)).

2. Pursuant to 46 CFR 308.1(c), the Administrator (or DOT) will find each ship enrolled or utilized under this agreement eligible for U.S. Government war risk insurance.

I. Antitrust Defense

1. Under the provisions of DPA section 708, each carrier shall have available as a defense to any civil or criminal action brought under the antitrust laws (or any similar law of any State) with respect to any action taken to develop or carry out this Agreement, that such act was taken in the course of developing or carrying out this Agreement and that the Participant complied with the provisions of DPA section 708 and any regulation thereunder, and acted in accordance with the terms of this Agreement.

2. This defense shall not be available to the Participant for any action occurring after termination of this Agreement. This defense shall not be available upon the modification of this Agreement with respect to any subsequent action that is beyond the scope of the modified text of this Agreement, except that no such modification shall be accomplished in a way that will deprive the Participant of antitrust defense for the fulfillment of obligations incurred.

3. This defense shall be available only if and to the extent that the Participant asserting it demonstrates that the action, which includes a discussion or agreement, was within the scope of this Agreement.

4. The person asserting the defense bears the burden of proof.

5. The defense shall not be available if the person against whom it is asserted shows that the action was taken for the purpose of violating the antitrust laws.

6. As appropriate, the Administrator, on behalf of SecTrans, and DoD will support agreements filed by Participants with the Federal Maritime Commission that are related to the standby or Contingency implementation of VISA.

J. Breach of Contract Defense

Under the provisions of DPA section 708, in any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken by a Participant during an emergency (including action taken in imminent anticipation of an emergency) to carry out this Agreement. Such defense shall not release the party asserting it from any obligation under applicable law to mitigate damages to the greatest extent possible.

K. Vessel Sharing Agreements (VSA)

1. VISA allows Participants the use of a VSA to utilize non-Participant U.S. Flag or foreign-owned and operated foreign flag vessel capacity as a substitute for VISA Contingency capability provided:

a. The foreign flag capacity is utilized in accordance with cargo preference laws and regulations.

b. The use of a VSA, either currently in use or a new proposal, as a substitution to meet DoD Contingency requirements is agreed upon by USTRANSCOM and MARAD.

c. The Participant carrier demonstrates adequate control over the offered VSA capacity during the period of utilization.

d. Service requirements are satisfied.

e. Participant is responsible to DoD for the carriage or services contracted for. Though VSA capacity may be utilized to fulfill a Contingency commitment, a Participant's U.S. Flag VSA capacity in another Participant's vessel shall not act in a manner to increase a Participant's capacity commitment to VISA.

2. Participants will apprise MARAD and USTRANSCOM in advance of any change in a VSA of which it is a member, if such changes reduce the availability of Participant capacity provided for in any approved and accepted Contingency Concept of Operations.

3. Participants will not act as a broker for DoD cargo unless requested by USTRANSCOM.

VII. Application and Agreement

The Administrator, in coordination with USCINCTRANS has adopted the form on page 31 (''Application to Participate in the Voluntary Intermodal Sealift Agreement'') on which intermodal ship operators may apply to become a Participant in this Agreement. The form incorporates, by reference, the terms of this Agreement.

United States of America, Department of Transportation, Maritime Administration

Application To Participate in the Voluntary Intermodal Sealift Agreement

The applicant identified below hereby applies to participate in the Maritime Administration's agreement entitled ''Voluntary Intermodal Sealift Agreement.'' The text of said Agreement is published in _____**Federal Register** _____, _____, 19_____. This Agreement is authorized under section 708 of the Defense Production Act of 1950, as amended (50 App. U.S.C. 2158). Regulations governing this Agreement appear at 44 CFR part 332 and are reflected at 49 CFR subtitle A.

The applicant, if selected, hereby acknowledges and agrees to the incorporation by reference into this Application and Agreement of the entire text of the Voluntary Intermodal Sealift Agreement published in _____**Federal Register** _____, _____, 19_____, as though said text were physically recited herein.

The Applicant, as a Participant, agrees to comply with the provisions of section 708 of the Defense Production Act of 1950, as amended, the regulations of 44 CFR part 332 and as reflected at 49 CFR subtitle A, and the terms of the Voluntary Intermodal Sealift Agreement. Further, the applicant, if selected as a Participant, hereby agrees to contractually commit to make specifically enrolled vessels or capacity, intermodal equipment and management of intermodal transportation systems available for use by the Department of Defense and to other Participants as discussed in this Agreement and the subsequent Department of Defense Voluntary Intermodal Sealift Agreement Enrollment Contract for the purpose of meeting national defense requirement.

Attest:

_____

(Corporate Secretary)

(CORPORATE SEAL)

Effective Date: _____

(Secretary)

(SEAL)

_____

(Applicant-Corporate Name)

_____

(Signature)

_____

(Position Title)

United States of America, Department of Transportation, Maritime Administration

By: _____
Maritime Administrator

By order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. 03–4039 Filed 2–24–03; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 14, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 27, 2003 to be assured of consideration.

Alcohol, Tobacco, Tax and Trade Bureau (ATTTB)

OMB Number: 1513–0087 (formerly 1512–0482).

Reporting Requirement Number: ATF Reporting Requirement 5100/1.

Type of Review: Extension.

Title: Labeling and Advertising Requirements Under the Federal Alcohol Administration Act.

Description: Bottlers and importers of alcohol beverages must adhere to numerous performance standards for statements made on labels and in advertisements of alcohol beverages. These performance standards include minimum mandatory labeling and advertising statements.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 6,060.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Jacqueline White, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 03–4424 Filed 2–24–03; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

[TTB Notice No. 3; TTB O 1130.2]

Delegation Order—Delegation of the Administrator's Authorities in 27 CFR Parts 19, 40, 71, 72 and 194

To: All Bureau Employees and All Interested Parties

1. *Purpose.* This order delegates certain authorities of the Administrator, Tax and Trade Bureau (TTB) in 27 CFR parts 19, 40, 71, 72 and 194 to subordinate TTB officers and prescribes the subordinate TTB officers with whom persons file documents.

2. *Background:*

a. On November 25, 2002, the President signed into law the Homeland Security Act of 2002, Pub. L. 107–296, 116 Stat. 2135 (2002). The Homeland Security Act of 2002 divided the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, into two separate agencies, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) in the Department of Justice, and the Tax and Trade Bureau (TTB) in the Department of the Treasury. This division of the former agency and division of its responsibilities into two new agencies took place 60 days after enactment of the Act on January 24, 2003.

b. The Homeland Security Act of 2002 provides that the newly established Tax and Trade Bureau be headed by an Administrator. It also provides that the authorities, functions, personnel and assets of the Bureau of Alcohol, Tobacco and Firearms that are not transferred to the Department of Justice shall be retained within the Department of the Treasury and administered by the Tax and Trade Bureau.

c. Pursuant to the duties and powers established by the Homeland Security Act of 2002, the Administrator TTB is authorized to administer and enforce Chapters 51 (relating to distilled spirits, wine and beer) and 52 (relating to tobacco products and cigarette papers and tubes) of title 26, U.S.C., the Internal Revenue Code of 1986, as amended, sections 4181 and 4182 (relating to the excise tax on firearms and ammunition) of the Internal Revenue Code of 1986, and title 27, United States Code (relating to alcohol).

d. In addition, Treasury Order No. 120–1 (Revised) dated January 24, 2003 established the Tax and Trade Bureau within the Department of the Treasury and designated it as the Alcohol and Tobacco Tax and Trade Bureau (TTB). It directed that the head of TTB is the Administrator who shall exercise the authorities, perform the functions, and carry out the duties of the Secretary in the administration and enforcement of the laws cited in paragraph 2c above.

e. Treasury Order No. 120–1 also grants the Administrator of TTB all authorities delegated to the Director of the Bureau of Alcohol, Tobacco and Firearms in effect on January 23, 2003, that are related to the administration and enforcement of the laws specified in paragraph 2c. In addition, it grants the Administrator full authority, powers, and duties to administer the affairs of and to perform the functions of TTB, including, without limitation, all management and administrative authorities and responsibilities similarly granted and assigned to Bureau Heads or Heads of Bureaus in Treasury Orders and Treasury Directives.

f. Treasury Order No. 120–1 provides that all regulations adopted on or before January 23, 2003 for the administration and enforcement of the laws cited in paragraph 2c above shall continue in effect until superseded or revised.

g. 27 CFR parts 19, 40, 71, 72 and 194 contain numerous references to ATF titles that are no longer valid since the transfer of responsibility for administration and enforcement of these parts of 27 CFR from the Bureau of Alcohol, Tobacco and Firearms (ATF) to the Alcohol and Tobacco Tax and Trade Bureau (TTB). Therefore, this delegation order identifies those officers within TTB that have replaced the ATF officers named in the current 27 CFR parts 19, 40, 71, 72 and 194. This order also delegates certain authorities to subordinate TTB officers. TTB will publish a final rule in the near future to reflect these changes.

3. *Effective Date.* This order is effective January 24, 2003.

4. *Ratification.* In addition to section 1512(a) of the Homeland Security Act of 2002, this order affirms and ratifies any action taken that is consistent with this order.

5. *Delegations:* a. Under the authority vested in the Administrator, Alcohol and Tobacco Tax and Trade Bureau, by

the Homeland Security Act of 2002, Treasury Department Order No. 120–01 (Revised) dated January 24, 2003, and by 26 CFR 301.7701–9, this TTB order delegates certain authorities prescribed in 27 CFR parts 19, 40, 71, 72 and 194 to TTB officers as follows:

Any reference in 27 CFR parts 19, 40, 72 or 194 to authorities of the following officials:	Now refers to the following officials:
Director, Bureau of Alcohol, Tobacco and Firearms	Administrator, Alcohol and Tobacco Tax and Trade Bureau.
Delegate of the Director	Delegate of the Administrator.
ATF Officer	Specialist, National Revenue Center or Investigator * or Auditor. *
ATF Officer or Agent	Specialist, National Revenue Center or Investigator * or Auditor. *
Regional Director (Compliance)	Chief, National Revenue Center or Chief, Trade Investigations Division or Chief, Tax Audit Division.
Director of Industry Operations	Chief, National Revenue Center.
Area Supervisor	Unit Supervisor, National Revenue Center or Supervisor Trade Investigations Group * or Supervisor Tax Audit Group. *
Any employee of the Bureau of Alcohol, Tobacco & Firearms	Any employee of the Alcohol and Tobacco Tax and Trade Bureau.
Chief Counsel of the Bureau of Alcohol, Tobacco and Firearms	Chief Counsel of the Alcohol and Tobacco Tax and Trade Bureau.
Associate Director (Compliance Operations)	Chief, National Revenue Center.

* Field officials are not able to receive materials by mail—all mail should be sent to the National Revenue Center official until further notice.

Any reference in 27 CFR part 71 to authorities of the following officials:	Now refers to the following officials:
Director, Bureau of Alcohol, Tobacco and Firearms	Administrator, Alcohol and Tobacco Tax and Trade Bureau.
Director of Industry Operations	Deputy Assistant Administrator, Field Operations.
Regional Director (Compliance)	Deputy Assistant Administrator, Field Operations.
District Director	Deputy Assistant Administrator, Field Operations.
Employee of the Bureau of Alcohol, Tobacco & Firearms	Employee of the Alcohol and Tobacco Tax and Trade Bureau.
Chief Counsel of the Bureau of Alcohol, Tobacco and Firearms	Chief Counsel of the Alcohol and Tobacco Tax and Trade Bureau.

b. Certain authorities of the Administrator are further redelegated to the following officials:

The authority in part 19 to:	Is redelegated to:
Prescribe forms	Assistant Chief, Regulations and Procedures Division.
Approve alternate methods and procedures	Chief, Regulations and Procedures Division sets precedents, Chief, National Revenue Center acts on similar requests.
Approve emergency variations	Chief, National Revenue Center or Supervisor, Trade Investigations Group * or Supervisor, Tax Audit Group. *
Approve pilot operations	Chief, Regulations and Procedures Division.
Approve experimental operations	Chief, National Revenue Center.
Approve other businesses on distilled spirits plant premises	Chief, National Revenue Center.
Approve withdrawal of spirits by the United States and disposition of excess spirits.	Chief, National Revenue Center.
Approve distinctive liquor bottles	Chief, Advertising, Labeling and Formulation Division.
Approve experimental or research operations	Chief, National Revenue Center or Chief, Regulations and Procedures Division.
Approve other gauging device or method	Chief, Regulations and Procedures Division.
Approve securing devices	Chief, National Revenue Center or Chief, Regulations and Procedures Division.
Approve continuity of premises	Chief, National Revenue Center or Chief, Regulations and Procedures Division.
Approve adoption of formulas	Unit Supervisor, National Revenue Center.
Approve alternate lock specifications	Chief, Regulations and Procedures Division.
Approve spirits content of chemicals removed	Chief, Regulations and Procedures Division.
Waive information on labels for export	Chief, Regulations and Procedures Division.
Approve conversion of SDA to other formulas	Chief, Regulations and Procedures Division.
Approve alternate containers	Chief, Regulations and Procedures Division.
Disapprove bottles not constituting approved containers	Specialist, Advertising, Labeling and Formulation Division.
Require statements on labels	Specialist, Advertising, Labeling and Formulation Division.
Approve modified forms	Chief, Regulations and Procedures Division.
Approve materials to render spirits unfit for beverage use	Chief, Nonbeverage Products Section.
To take final action on TTB matters within the Commonwealth of Puerto Rico.	Chief, Puerto Rico Operations.

* Field officials are not able to receive materials by mail—all mail should be sent to the National Revenue Center official until further notice.

The authority in part 40 to:	Is redelegated to:
Prescribe forms	Assistant Chief, Regulations and Procedures Division.

The authority in part 40 to:	Is redelegated to:
Approve alternate methods and procedures	Chief, Regulations and Procedures Division sets precedents, Chief, National Revenue Center acts on similar requests.
Approve emergency variations	Chief, National Revenue Center or Supervisor, Trade Investigations Group* or Supervisor, Tax Audit Group.*
Approve other businesses within factory	Chief, National Revenue Center
Approve alternative package markings	Chief, Regulations and Procedures Division.

* Field officials are not able to receive materials by mail—all mail should be sent to the National Revenue Center official until further notice.

This authority in parts 71, 72 and 194:	Is redelegated to:
Prescribe forms	Assistant Chief, Regulations and Procedures Division.
Delegate of the Administrator in part 72	Chief, National Revenue Center.
Administrator in 194.229	Chief, Regulations and Procedures Division.

6. *Redelegation.* The authorities delegated in this order may not be redelegated.

7. *Questions.* If you have a question about this order, contact the Regulations and Procedures Division (202–927–8210).

Dated: February 13, 2003.

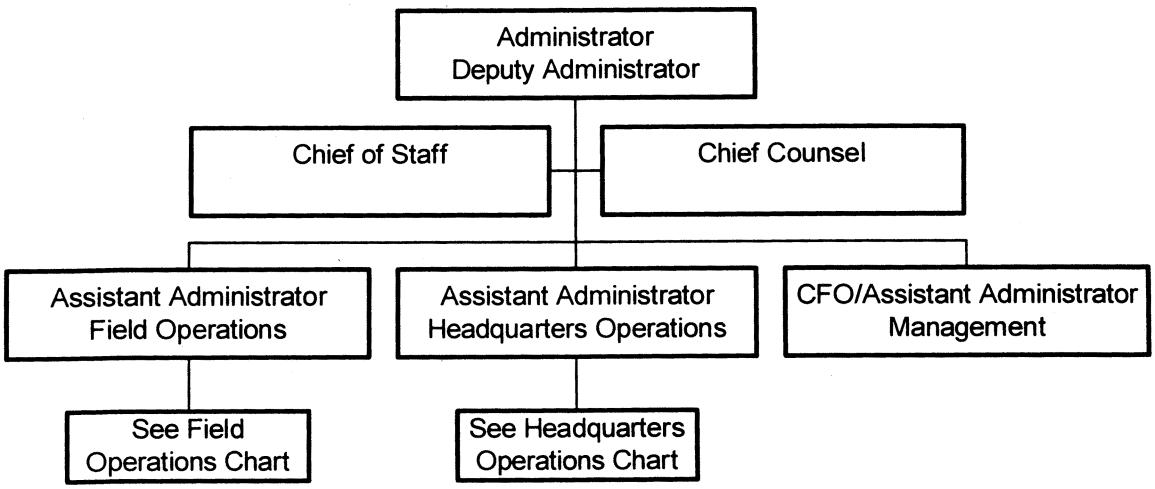
Arthur J. Libertucci,

Administrator.

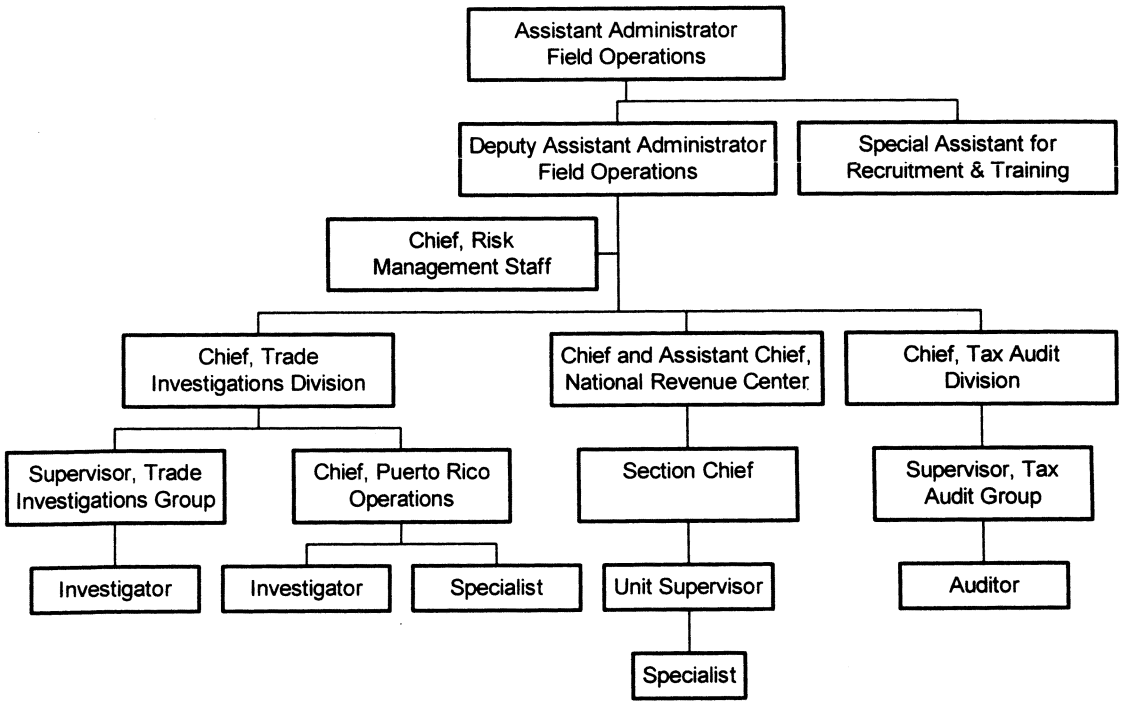
BILLING CODE 4810–31–P

Department of the Treasury

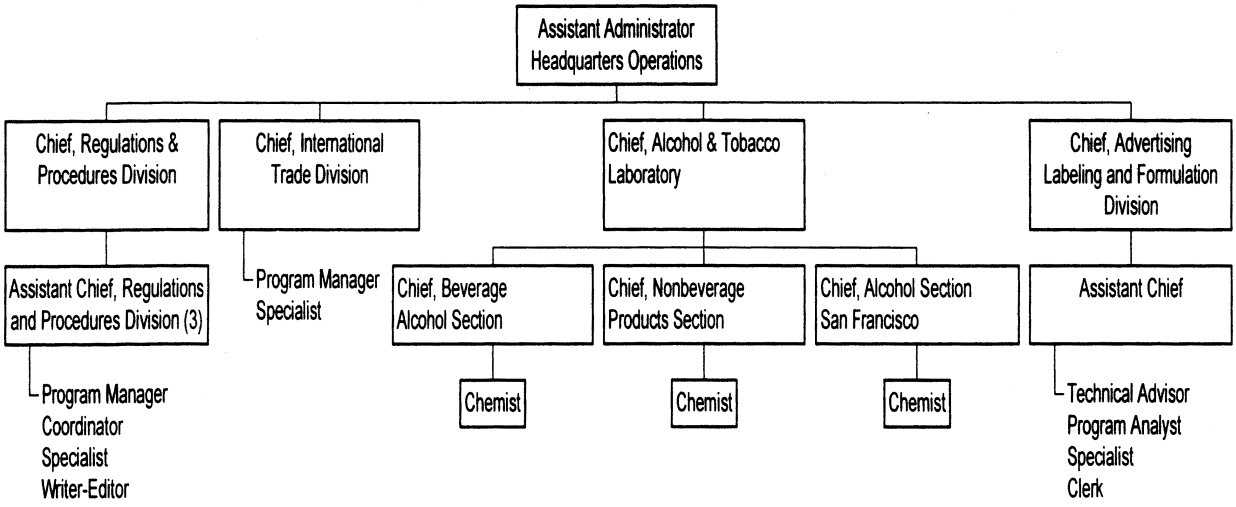
Alcohol and Tobacco Tax and Trade Bureau



Field Operations



Headquarters Operations



Organizational charts as of 1/24/2003.

Charts are subject to change.

[FR Doc. 03–4421 Filed 2–24–03; 8:45 am]
BILLING CODE 4810–31–C

DEPARTMENT OF THE TREASURY

Customs Service

Announcement of Changes to the Eligibility Requirements and Application Process for Participation in Remote Location Filing Prototype Two

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces two changes to Remote Location Filing Prototype Two. One change provides that line release entries are no longer permitted under this prototype. The other change simplifies the application process for participation in the prototype to a one-step procedure that will consolidate information collection and expedite application processing at Customs Headquarters. Current RLF filers do not need to re-apply to Customs Headquarters to continue participation in RLF Prototype Two, nor will they be required to submit additional port applications.

DATES: The changes to Customs second prototype of the Remote Location Filing program will go into effect February 25, 2003. Comments concerning these changes, or any other aspect of RLF, may be submitted to Customs at any time. Applications for participation in RLF Prototype Two will be accepted throughout the duration of the test program.

ADDRESSES: Written comments and applications to participate in the prototype should be addressed to the Remote Filing Team, Office of Field Operations, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Room 5.2–B, Washington, DC 20229. Comments may also be submitted via e-mail to *Lisa.k.santana@customs.treas.gov.*

FOR FURTHER INFORMATION CONTACT: For systems or automation issues: Eloisa Calafell (305) 869–2780 or Jackie Jegels (301) 893–6717. For operational or policy issues: Lisa K. Santana at (202) 927–4342 or via e-mail at *Lisa.k.santana@customs.treas.gov.*

SUPPLEMENTARY INFORMATION:

Background

RLF Authorized by the National Customs Automation Program (NCAP)

Title VI of the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, 107 Stat. 2057 (December 8, 1993), contains provisions pertaining to Customs Modernization (107 Stat. 2170). Subpart B of Title VI of the Act concerns the National Customs Automation Program (NCAP), an electronic system for the processing of commercial imports. Within subpart B, section 631 of the Act added section 414 (19 U.S.C. 1414), which provides for Remote Location Filing (RLF), to the Tariff Act of 1930, as amended. RLF permits an eligible NCAP participant to elect to file electronically a formal or informal consumption entry with Customs from a remote location within the Customs territory of the United States other than the port of arrival, or from within the port of arrival with a requested designated examination site outside the port of arrival.

RLF Prototype Two

In accordance with § 101.9(b) of the Customs Regulations (19 CFR 101.9(b)), Customs has developed and tested two RLF prototypes.

RLF Prototype Two commenced on January 1, 1997. *See* document published in the **Federal Register** (61 FR 60749) on November 29, 1996. On December 7, 1998, Customs announced in the **Federal Register** (63 FR 67511) that Prototype Two would remain in effect until Customs concluded the prototype by notice in the **Federal Register**. On July 6, 2001, Customs announced in the **Federal Register** (66 FR 35693) changes to the eligibility requirements for participation in RLF Prototype Two which mandated that customs brokers hold a national permit. That notice also announced that the provisions of part 111 of the Customs Regulations (which set forth the regulations providing for the licensing

of and granting of permits to customs brokers) were applicable to customs brokers participating in the RLF prototype. The July 6, 2001, document noted that all of the other RLF Prototype Two terms and conditions set forth in the December 7, 1998 document remained in effect.

Changes to RLF Prototype Two

Since the inception of RLF Prototype Two, there have been significant changes made to the RLF application process, as well as to the prototype's eligibility requirements. As a result, much of the information contained in previous **Federal Register** notices regarding the application process, participant selection, and eligibility requirements needs to be updated or is now obsolete. For these reasons, this notice contains a comprehensive and updated list of current RLF eligibility requirements and a description of the new one-step application process. Therefore, information contained in this notice regarding these subject areas supercedes the information set forth in the sections entitled ''Eligibility Criteria,'' ''Prototype Two Applications,'' and ''Basis for Participant Selection'' in the above-referenced **Federal Register** notices. All of the other RLF Prototype Two terms and conditions set forth in the above-referenced **Federal Register** notices remain in effect, except those explicitly changed by this document and described below.

I. No Line Release Entries Permitted Under RLF Prototype Two

RLF participants may not file using paper invoices or line release for RLF transactions. This prohibition is necessary to reflect the fact that RLF participants must possess a national permit and line release programs require a local permit.

II. RLF Prototype Two Eligibility Criteria

To be eligible to participate in RLF Prototype Two, a filer must have proven capability to provide electronically, on an entry-by-entry basis, the following: entry; entry summary; invoice information using the Electronic Invoice Program (EIP); and the payment of duties, fees, and taxes through the Automated Clearinghouse (ACH). *See* 19 U.S.C. 1414(a)(2). EIP includes modules of the Automated Broker Interface (ABI) that allow entry filers to electronically transmit detailed entry data and includes Automated Invoice Interface (AII) and Electronic Data Interchange for Administration, Commerce and Transportation (EDIFACT). In addition, the following requirements and conditions apply:

1. RLF participants must be operational on the ABI (*see* 19 CFR part 143, subpart A);
2. RLF participants must be operational on the ACH 30 days before applying for RLF (*see* 19 CFR 24.25);
3. RLF participants must be operational on the EIP prior to applying for RLF;
4. RLF participants must possess a National Permit (*see* 19 CFR 111.19(f));
5. The remote Customs location(s) to which a prospective RLF participant wishes to transmit RLF information must have received EIP/RLF training.

A current listing of RLF-trained locations, as well as other RLF information and updates, is available on the Customs Electronic Bulletin Board (CEBB), the Customs Administrative Message System (CAMS), and on the Customs Internet Web site at *http://www.customs.gov;*

6. RLF participants must maintain a continuous bond which meets or exceeds the national guidelines for bond sufficiency;
7. Only entry type 01 (consumption) and entry type 11 (informal) will be accepted for RLF;
8. Cargo release must be certified from the entry summary transaction data (EI);
9. RLF participants may not file using paper invoices or line release for RLF transactions;

(**Note:** EIP participants will be allowed to file Immediate Delivery releases for direct arrival road and rail freight at the land border using paper invoices under Line Release, Border Cargo Selectivity (BCS), or Cargo Selectivity (CS), in accordance with 19 CFR 142.21(a).)

10. Cargo that has been moved in-bond is not eligible for RLF but may be eligible for clearance under EIP; and
11. RLF participants must use other government agency (OGA) interfaces where available. It is the filer's responsibility to ensure that all OGA requirements are met for each entry filed under RLF. If an electronic interface is not available, contact your local RLF coordinator for possible alternative filing options.

In addition to the eligibility requirements described above, all RLF participants are reminded of their responsibility to provide accurate information to Customs, and of their responsibility to adhere to all laws, regulations, rules, restrictions and eligibility criteria that pertain to this program. Any RLF participant who violates any of the above conditions will be subject to all penalties available under the law including possible suspension from the prototype.

Participants are further reminded that participation in RLF Prototype Two is not confidential. Lists of approved participants will be made available to the public.

RLF Prototype Two Application Process

Applications for participation in RLF Prototype Two will be accepted on an ongoing basis and should be submitted to the Remote Filing Team, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Room 5.2B, Washington, DC 20229. Applications must contain the following information:

1. Filer name, point of contact, address, filer code and IRS #;
2. Site(s) from which RLF transmission originates (include port code);
3. Name of port(s) (including port code) to which RLF electronic filings will be transmitted; and
4. A sample of 5 entries filed using the Automated Invoice Interface (AII)/EIP, of varying complexity, that include: multiple lines, multiple invoices and an adjustment to the entered value (Delivered Duty Paid (DDP) and Cost, Insurance and Freight (CIF)).

After an application has been reviewed and evaluated, the applicant will receive an approval or denial letter from the Remote Filing Team, Customs Headquarters. An applicant will be permitted to begin filing entries to a remote location upon receipt of a letter from Customs granting approval to participate in RLF. If an approved RLF participant seeks to add additional ports or importers, they must notify their ABI client representative or the Headquarters coordinator for profile updates.

Dated: February 13, 2003.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 03–4407 Filed 2–24–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center (FLETC)

Meeting Cancellation

AGENCY: Federal Law Enforcement Training Center, Department of the Treasury.

ACTION: Cancellation of notice.

SUMMARY: This cancels previously announced **Federal Register** Notice published on February 4, 2003 (Volume 68, Number 23) [Notices][Page 5701]. The Advisory Committee to the National

Center for State and Local Law Enforcement Training (National Center) at the Federal Law Enforcement Training Center has cancelled its meeting previously scheduled for February 26, 2003.

ADDRESSES: Federal Law Enforcement Training Center, Building 67, Glynco, GA 31524.

FOR FURTHER INFORMATION CONTACT: Bruce P. Brown, Director, National Center for State and Local Law Enforcement Training, Federal Law Enforcement Training Center, Glynco, GA 31524, 912–267–2322.

Dated: February 19, 2003.

Bruce P. Brown,

Director, National Center for State and Local Law Enforcement Training.

[FR Doc. 03–4481 Filed 2–21–03; 11:22 am]

BILLING CODE 4810–32–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Restaurant and Bar Tip Reporting Open Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This is an open meeting to discuss tip reporting and tax responsibilities of employees and employers in restaurants and drinking establishments.

DATES: This meeting will be held on Wednesday, April 2, 2003. Notification of intent to attend the meeting or make a presentation at the meeting should be made with Christine Williams or Sandy Cyze at 630–493–5812 by March 14, 2003. Notification of intent should include your name, phone number, e-mail address and organization represented. If you leave this information for Ms. Williams or Ms. Cyze in a voice-mail message, please spell out all names.

ADDRESSES: This meeting will be held at the Treasury Executive Institute, 801 9th St., NW., Washington, DC. The meeting will be open to the public and will be in a room that accommodates approximately 50 people. Limited seating space and building security requirements necessitate reservations, so please call as early as possible.

FOR FURTHER INFORMATION CONTACT: To get on the access list to attend this meeting, or have a copy of the agenda faxed to you, call Christine Williams or Sandy Cyze at 630–493–5812. A draft of the agenda will be e-mailed to registered participants during the week prior to the meeting.

SUPPLEMENTARY INFORMATION: The IRS welcomes suggestions that will simplify the taxpayer burden associated with tip reporting by restaurants and their employees. The IRS is also interested in current tip practice and the electronic collection of data. Written comments can be mailed to the IRS, Taxpayer Education and Communications Area Director, 2001 Butterfield Rd., Suite 1301, Downers Grove, IL 60515 or via e-mail to *leonard.n.hall@irs.gov.* Comments are due by March 14, 2003.

Background: In 1994, the IRS met with industry representatives and developed several voluntary programs to encourage accurate tip reporting. Despite these existing programs, a significant amount of tip income remains unreported. In June 2002, the Supreme Court affirmed in the case of United States vs. Fior D'Italia that the IRS can impose employer-only assessments of unpaid employment taxes on tips. While the Court sustained the IRS' authority to perform these audits, the IRS is interested in continuing its long-held successful dialogue with the food and beverage industry. The IRS is seeking taxpayer input to help increase participation and compliance in existing tip programs.

Summarized Agenda for Meeting Wednesday, April 2, 2003

9 Meeting Opens
11:30 Break for Lunch
1 Meeting Resumes
5 Meeting Adjourns

The topics that are planned to be covered are as follows:

(1) Tip Rates-Industry Experience
(2) Industry Experience with Existing Programs
(3) Suggestions for Improving Process/Reducing Burden
(4) Incentives for Participation
(5) Electronic Recordkeeping Processes

Note: Last minute changes to these topics are possible and could prevent advance notice.

Dated: February 13, 2003.

Robert L. Hunt,

Director, Small Business/Self-Employed Division, Taxpayer Education and Communications.

[FR Doc. 03–4417 Filed 2–24–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 3 Taxpayer Advocacy Panel (Including the States of Florida, Georgia, Alabama, Mississippi, Louisiana, Arkansas and Tennessee)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 3 Taxpayer Advocacy Panel will be conducted (via teleconference).

DATES: The meeting will be held Friday, March 21, 2003.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 3 Taxpayer Advocacy Panel will be held Friday, March 21, 2003, from 11:00 am EST to 12:30 pm EST via a telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979.

The agenda will include the following: Various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: February 19, 2003.

Deryle J. Temple,

Director, Taxpayer Advocacy Panel.

[FR Doc. 03–4415 Filed 2–24–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference).

DATES: The meeting will be held Wednesday, March 26, 2003.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be held Wednesday, March 26, 2003, from 12 noon EST to 1 pm EST via a telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979.

The agenda will include the following: IRS Notices.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: February 19, 2003.

Deryle J. Temple,

Director, Taxpayer Advocacy Panel.

[FR Doc. 03–4416 Filed 2–24–03; 8:45 am]

BILLING CODE 4830–01–P

Reader Aids

Federal Register

Vol. 68, No. 37

Tuesday, February 25, 2003

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

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FEDERAL REGISTER PAGES AND DATE, FEBRUARY

5203–5528 3
5529–5784 4
5785–6060 5
6061–6338 6
6339–6602 7
6603–6814 10
6815–7062 11
7063–7300 12
7301–7410 13
7411–7692 14
7693–7896 18
7897–8152 19
8153–8444 20
8445–8538 21
8539–8702 24
8703–8816 25

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7644 6055
7645 6057
7646 6059
7647 7053

Executive Orders:
13285 5203

Presidential Determinations:
No. 2003-13 of January 29, 2003 5785
No. 2003-14 of January 30, 2003 5787

5 CFR

576 5529
875 5530
890 5470

Proposed Rules:
890 6649
2637 7844
2641 7844

7 CFR

1 6339
15f 7411
301 ..... 5793, 5794, 6603
318 ..... 5796, 5800
319 6544
330 6341
354 6341
762 7693
764 7693
774 7693
1000 7063
1001 7063
1005 7063
1006 7063
1007 7063
1030 7063
1032 ..... 7063, 7070
1033 7063
1124 7063
1126 7063
1131 7063
1135 7063
1413 5205
1755 7897
1910 7693
1924 7693
1941 7693
1943 7693
1951 7693
1955 7693
1956 7693
1962 7693
1965 7693

Proposed Rules:
319 6352
360 6653
1466 6655
1470 7720

9 CFR

4 6341
11 6341
12 6341
49 6341
50 6341
51 6341
52 6341
53 6341
54 6341
70 6341
71 6341
72 6341
73 6341
74 6341
75 6341
77 6341
78 6341
79 6341
80 6341
82 7412
85 6341
89 6341
91 6341
92 6341
93 ..... 6341, 7414
94 ..... 5802, 6341
95 6341
96 6341
97 6341
98 6341
99 6341
122 6341
123 6341
124 6341
130 6341
145 6341
147 6341
160 6341
161 6341
162 6341
166 ..... 6341, 7415

Proposed Rules:
94 ..... 6673, 7722

10 CFR

72 8445

Proposed Rules:
72 8472

11 CFR

110 6346

Proposed Rules:
100 7728
110 7728

12 CFR

211 7898
272 6061
303 7301
1750 7309
1805 5704

1806 5717
Proposed Rules:
3 6363
5 6363
6 6363
7 6363
9 6363
28 6363
34 6363
609 5595
611 5587
612 5587
614 ....5587, 5595
615 5595
617 ....5587, 5595

13 CFR

Proposed Rules:
120 5234
121 5234

14 CFR

23 5538
25 5208
39 ....5541, 5805, 5808, 5810, 5812, 5815, 5818, 5819, 5822, 6347, 6815, 7652, 7900, 7902, 7904, 7908, 7910, 7911, 8539
71 ....6606, 6607, 7652, 7913, 7914, 7915, 7916, 8703, 8704, 8705, 8706
73 7917
91 7684
95 7918
97 ....6816, 6818, 8707, 8709
119 5782
121 5782
129 5782
135 5782
150 6608
183 5782
Proposed Rules:
1 6802
39 ....5610, 5856, 6376, 6379, 6380, 6382, 6383, 7081, 7084, 7449, 7451, 7947, 8155, 8157, 8161, 8473, 8475, 8477, 8555, 8558, 8560, 8563, 8564, 8566
71 ....5613, 6677, 7949
91 6802
121 6802
125 ....5488, 6802
135 ....5488, 6802
255 7325

15 CFR

2016 5542

16 CFR

1512 7072
305 8448

17 CFR

1 5545
30 5545
190 5545
205 6296
210 6006
228 5982
229 5982
239 6564
240 ....5348, 6006, 8686
249 ....5348, 5982, 6006, 6564
270 ....5348, 6564, 8438
274 ....5348, 6006, 6564
275 6585
Proposed Rules:
201 8138
205 6324
240 6324
249 6324
270 7038
275 7038

18 CFR

157 8710
375 6608
390 7416

19 CFR

102 8711
141 8713
142 8713

20 CFR

260 6820
320 6820
404 5210
416 5210

21 CFR

58 6609
73 7416
201 6062
349 7919
522 8153
529 5562
558 6820
866 5825
Proposed Rules:
1 ....5378, 5428
101 8163
349 7951
1301 7728

22 CFR

120 7417
123 6609
Proposed Rules:
307 5857

23 CFR

450 7418
636 7921
Proposed Rules:
1225 6091

24 CFR

234 6396
Proposed Rules:
902 6262
3500 6385

26 CFR

1 ....5346, 6081, 6350
157 7922
602 7922
Proposed Rules:
1 ....7453, 7454
41 7454
48 7454
145 7454
157 7956
602 7956

27 CFR

Proposed Rules:
55 ....7410, 8331

28 CFR

105 7313
522 5563

29 CFR

4022 7419
4044 7419
Proposed Rules:
403 8727
408 8727
4000 7454
4003 7454
4007 7454
4010 7454
4011 7454
4022 7454
4041 7454
4041a 7454
4043 7454
4050 7454
4062 7454
4203 7454
4204 7454
4207 7454
4208 7454
4211 7454
4219 7454
4220 7454
4221 7454
4231 7454
4245 7454
4281 7454
4901 7454
4902 7454
4903 7454
4907 7454

30 CFR

100 6609
250 ....7421, 8402
Proposed Rules:
206 ....7085, 7086
250 8480
917 6838
934 6842

31 CFR

103 6613
321 7427
351 7427
352 7427
353 7427
359 7427
360 7427
501 6820
Proposed Rules:
103 ....8480, 8568, 8571

32 CFR

199 6617
254 6082
311 8721
706 ....5827, 5828, 5829, 5830, 5831
Proposed Rules:
322 8179

33 CFR

117 ....5832, 6621, 7427
165 ....5833, 7073, 7075, 7078, 7701, 7926
Proposed Rules:
117 ....5858, 6100, 7087
165 ....5614, 6844, 7093, 7471, 7473, 7958, 7960
179 7096
181 7096
183 7096
385 5860

34 CFR

34 8142

36 CFR

242 ....7276, 7298, 7703
Proposed Rules:
242 ....7294, 7734

37 CFR

Proposed Rules:
201 6678

38 CFR

14 8541
19 6621
36 6625
60 8547
Proposed Rules:
3 ....6679, 6998
4 6998

40 CFR

9 7176
52 ....5221, 5228, 6627, 6629, 7174, 7321, 7428, 7704, 8550, 8723
61 6082
62 ....6630, 6633
63 ....6635, 7706
81 ....7174, 7410, 8185
122 7176
123 7176
180 ....5835, 5839, 5847, 7428, 7931, 7935
261 8553
412 7176
Proposed Rules:
52 ....5246, 5263, 6681, 7327, 7330, 7476, 8574, 8727
60 8574
62 ....6681, 6682
63 7735
180 7097

41 CFR

109–6 7940
Ch. 302 7941

42 CFR

405 6636
419 6636
Proposed Rules:
413 6682

44 CFR

64 5852
65 ....6644, 6823, 6826
67 ....6828, 6830
Proposed Rules:
61 5264
67 ....6847, 6861

45 CFR

160 8334
162 ....8334, 8381
164 8334
1602 7433
1611 7718

46 CFR

356 5564
Proposed Rules:
401 7489

47 CFR

32 6351
52 7323
53 6351
54 ....6646, 6832
64 ....6351, 6352, 8553
73 ....5583, 5584, 5854, 5855, 6082, 7944, 8724, 8725

Proposed Rules:

0 6689
43 6689
63 6689
64 6689
73 ....5616, 5617, 5860, 5861, 5862, 7737, 7961, 7962, 7963, 7964, 8486, 8728, 8729, 8730
74 7737
76 7737
90 ....6687, 6688, 7737

48 CFR

201 7438
202 7438
204 7438
206 7438
209 7438
212 7438
214 7438
217 7438
219 7438
225 7441
230 7438
231 7438
232 ....7438, 8450
236 7438
237 7443
239 7438
242 7438
249 7438
250 7438
252 ....7441, 8450
253 7438
923 6355
936 6355
970 6355
1804 5230
1827 5230
1835 5230
1852 5230

Proposed Rules:

2 5774
31 5774
52 5778
228 7490
252 7491
532 8486
538 8486
552 8486

49 CFR

390 8580
396 8580
571 6359
1011 8725
1540 7444
1570 6083
1572 6083

Proposed Rules:

173 6689
192 6385
571 ....5863, 7100, 7747
1180 6695

50 CFR

17 8088
100 ....7276, 7298, 7703
222 8456
223 ....7080, 8456
224 8456
622 6360
648 6088
679 ....5585, 6833, 7323, 7448, 7719, 8153, 8154, 8726

Proposed Rules:

17 ....6863, 8487, 8730
20 6697
21 6697
92 6697
100 ....7294, 7734
300 6103
600 ....6863, 7492, 8487
648 ....7749, 7965, 8731
679 ....6386, 6865, 7750

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT FEBRUARY 25, 2003

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

North Carolina; published 12-27-02

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

MD Helicopters, Inc.; published 1-21-03

Standard instrument approach procedures; published 2-25-03

TREASURY DEPARTMENT

Customs Service

Uruguay Round Agreements Act:

Textile and apparel products; country of origin; published 2-25-03

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Peaches, plums, and nectarines; grade standards; comments due by 3-7-03; published 1-31-03 [FR 03-02250]

AGRICULTURE DEPARTMENT

Forest Service

National Forest System land and resource management planning; comments due by 3-6-03; published 12-6-02 [FR 02-30683]

COMMERCE DEPARTMENT

National Institute of Standards and Technology

National Construction Safety Team Act; implementation; comments due by 3-3-03; published 1-30-03 [FR 03-02084]

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Section 508 micro-purchase exception sunset provision; comments due by 3-3-03; published 12-31-02 [FR 02-32743]

DEFENSE DEPARTMENT

Engineers Corps

Water pollution control:

Clean Water Act—

Waters of United States; definition; comments due by 3-3-03; published 1-15-03 [FR 03-00960]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans:

Preparation, adoption, and submittal—

Prevention of significant deterioration and nonattainment new source review; routine maintenance, repair, and replacement; comments due by 3-3-03; published 12-31-02 [FR 02-31900]

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Missouri and Illinois; comments due by 3-3-03; published 1-30-03 [FR 03-01773]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 3-3-03; published 1-31-03 [FR 03-02174]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 3-3-03; published 1-31-03 [FR 03-02175]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 3-3-03; published 1-31-03 [FR 03-02176]

District of Columbia, Maryland, and Virginia; comments due by 3-5-03; published 2-3-03 [FR 03-02333]

Maryland; comments due by 3-5-03; published 2-3-03 [FR 03-02433]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Maryland; comments due by 3-5-03; published 2-3-03 [FR 03-02434]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Missouri; comments due by 3-3-03; published 1-30-03 [FR 03-01772]

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Lambda-cyhalothrin; comments due by 3-4-03; published 1-3-03 [FR 03-00006]

S-metolachlor; comments due by 3-4-03; published 1-3-03 [FR 03-00005]

ENVIRONMENTAL PROTECTION AGENCY

Radiation protection programs:

Transuranic radioactive waste for disposal at Waste Isolation Pilot Plant; waste characterization program documents availability—

Argonne National Laboratory-East Site, NM; comments due by 3-3-03; published 1-31-03 [FR 03-02343]

Water pollution control:

Clean Water Act—

Waters of United States; definition; comments due by 3-3-03; published 1-15-03 [FR 03-00960]

FARM CREDIT ADMINISTRATION

Farm credit system:

Borrower rights; effective interest rates and related loan information; disclosure; comments due by 3-6-03; published 2-4-03 [FR 03-02401]

FEDERAL EMERGENCY MANAGEMENT AGENCY

National Flood Insurance Program:

Increased coverage rates; comments due by 3-5-03; published 2-3-03 [FR 03-02453]

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Section 508 micro-purchase exception sunset provision; comments due by 3-3-03; published 12-31-02 [FR 02-32743]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Medicare:

Physician fee schedule (2003 CY); payment policies and relative value unit adjustments; comments due by 3-3-03; published 12-31-02 [FR 02-32503]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Grants:

Faith-based organizations; equal treatment with other participants in HUD programs; comments due by 3-7-03; published 1-6-03 [FR 03-00133]

JUSTICE DEPARTMENT

Privacy Act; implementation; comments due by 3-3-03; published 1-31-03 [FR 03-02251]

LIBRARY OF CONGRESS

Copyright Office, Library of Congress

Copyright Arbitration Royalty Panel rules and procedures:

Digital performance of sound recordings by preexisting subscription services; reasonable rates and terms determination; comments due by 3-3-03; published 1-30-03 [FR 03-02081]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

Section 508 micro-purchase exception sunset provision; comments due by 3-3-03; published 12-31-02 [FR 02-32743]

PEACE CORPS

Standards of conduct; comments due by 3-7-03; published 2-5-03 [FR 03-02703]

POSTAL SERVICE

Domestic Mail Manual:

Outside-country periodicals co-palletization and drop-ship classification; experimental testing;

comments due by 3-3-03; published 1-30-03 [FR 03-02198]

SMALL BUSINESS ADMINISTRATION

Business loans:

Certified Development Company Loan Program; comments due by 3-6-03; published 2-3-03 [FR 03-02399]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air carrier certification and operations:

Transport category airplanes—

Passenger and flight attendant seats; improved crashworthiness; comments due by 3-3-03; published 12-3-02 [FR 02-30695]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; comments due by 3-3-03; published 1-2-03 [FR 02-32884]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Bombardier; comments due by 3-3-03; published 1-30-03 [FR 03-02098]

Dassault; comments due by 3-3-03; published 1-30-03 [FR 03-02148]

Empresa Brasileira de Aeronautica S.A. (EMBRAER); comments due by 3-3-03; published 1-30-03 [FR 03-02096]

Eurocopter France; comments due by 3-3-03; published 12-31-02 [FR 02-32889]

Hartzell Propeller, Inc.; comments due by 3-3-03; published 1-2-03 [FR 02-33074]

Raytheon; comments due by 3-3-03; published 1-27-03 [FR 03-01678]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Rolls-Royce Ltd.; comments due by 3-3-03; published 1-2-03 [FR 02-32888]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness standards:

Special conditions—

Bombardier Model BD-100-1A10 airplanes; comments due by 3-5-03; published 2-3-03 [FR 03-02422]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.J. Res. 2/P.L. 108–7

Consolidated Appropriations Resolution, 2003 (Feb. 20, 2003; 117 Stat. 11)

Last List February 18, 2003

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