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Presidential Documents

Title 3—

The President

Proclamation 7666 of April 25, 2003

National Charter Schools Week, 2003

By the President of the United States of America

A Proclamation

Charter schools provide many children with a first-class education, and they have gained national recognition for their accountability standards, innovative programs, and success with young people. The high expectations they set and the opportunities for development they create help students attending charter schools realize their potential and achieve their dreams.

Charter schools are held to the same standards, including curriculum standards, as traditional schools, and are also accountable to students, parents, and community leaders for producing results and improving achievement. By defining expected goals and offering options for children trapped in low-performing schools, charter schools help improve the overall quality of education in America.

The success of charter schools is evident in the achievements of the children who attend those schools and in the positive response from the communities they serve. In little more than a decade, 2,700 charter schools have opened in 36 States and the District of Columbia, and nearly two-thirds of these schools have waiting lists. Forty States and the District of Columbia have enacted charter school laws, and this year four additional States began considering charter school laws. To help State and local districts provide parents with more quality education alternatives, I have proposed increased funding for charter schools so that more of our children can receive the gift of a good education.

The accomplishments of charter schools prove that we can improve our public education system by replacing low expectations with a culture of achievement that rewards success and does not tolerate failure. Over the last 2 years, my Administration has taken steps to realize this vision by supporting accountability for results, expanded parental choice, increased local flexibility, and a focus on what works. With the No Child Left Behind Act of 2001, we continue to build a stronger educational foundation for America's children. States are now responsible for improving student achievement in public schools by maintaining tough academic standards and setting annual progress goals. The law further requires regular testing to ensure all students are proficient in reading and math and to help identify learning problems.

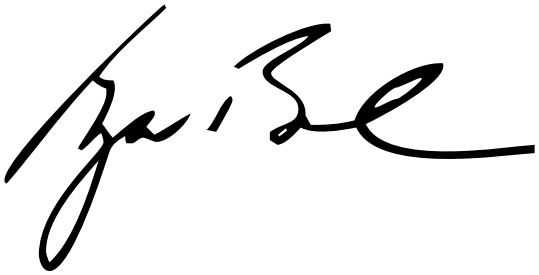
My Administration is working to provide the resources schools need to fund education reform and achieve these high standards. We have increased funding for elementary and secondary education by 36 percent in the last 2 years, and the Federal Government will spend nearly $24 billion on these programs this year. Through the new Reading First program, over $500 million has been distributed to 29 States to assist with reading programs that help ensure that our children will know how to read by the third grade. Expansions of our charter schools, and reforms in traditional public schools, are helping build the mind and character of our future leaders.

During National Charter Schools Week, we renew our commitment to our children and their education. I urge every American to visit a charter school and learn about its efforts to help children in their community. Charter

schools are just one of many successful alternatives that ensure that no child is left behind. By raising expectations and fostering hope, we can help build a future of promise for our next generation of Americans.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 27 through May 3, 2003, as National Charter Schools Week. I commend the States with charter schools, and I call on parents of charter school children to share their success stories with others so that all Americans may understand more about the important work of charter schools.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of April, in the year of our Lord two thousand three, and of the Independence of the United States of America the two hundred and twenty-seventh.



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Presidential Documents

Proclamation 7667 of April 25, 2003

National Volunteer Week, 2003

By the President of the United States of America

A Proclamation

Volunteering is central to the American character and is a fundamental expression of responsible citizenship. From our Nation's earliest days, people came together to do whatever was needed for the public good—from raising barns and providing mutual security to organizing educational activities and caring for their neighbors. Though our country has changed dramatically since its founding, the need for service has not. During National Volunteer Week, we recognize our proud legacy of volunteer service and resolve to encourage more Americans to continue strengthening our country by helping others.

This is a time for all Americans to be active citizens, not spectators. For that reason, I have created the USA Freedom Corps to mobilize our citizens and provide opportunities for individuals and organizations to contribute to important causes. As part of this initiative, I have asked all Americans to dedicate at least 4,000 hours over the rest of their lives to serving their neighbors and their Nation. Since that call to service, our citizens have responded with an outpouring of kindness that is transforming our country, one heart and one soul at a time. According to the Bureau of Labor Statistics, more than 59 million Americans volunteered last year through charitable organizations.

These individuals served in a variety of ways—mentoring and tutoring children, providing companionship to the elderly, running community theaters and arts programs, cleaning highways and parks, staffing essential community organizations, and offering physical and spiritual aid to the hungry and homeless. In addition, citizen volunteers have contributed to the ongoing war on terror by helping families and communities prevent, prepare for, and respond to emergencies. Across our Nation, our citizens are recognizing that everyone can do something to help and that serving those in need benefits the volunteer also.

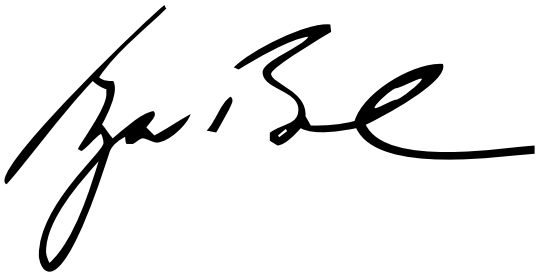
My Administration has taken several steps to build on this progress and continue the momentum created by these millions of acts of service. Most recently, I formed the President's Council on Service and Civic Participation, and charged them with creating a nationwide recognition program called the President's Volunteer Service Awards. These awards will be given to individuals and organizations engaged in a variety of volunteer services who have made a sustained commitment to service over the course of 1 year, and enhance our ability to pay tribute to volunteers and the impact their service has on our communities and our country.

National Volunteer Week offers each of us the opportunity to recognize one of the true strengths of our Nation—the compassionate spirit of our citizens. I urge all Americans to continue to uphold this spirit and answer the call to service to help ensure that all our citizens realize the promise of America. Together, we can achieve a hopeful future for all.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 27 through May

3, 2003, as National Volunteer Week. I call on all Americans to join together to celebrate the invaluable work that volunteers perform every day across our country, and to commit themselves to do more for their neighbors in need through the many volunteer programs available in their communities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of April, in the year of our Lord two thousand three, and of the Independence of the United States of America the two hundred and twenty-seventh.



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Rules and Regulations

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

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is amending its rule that permits a federal credit union (FCU) to provide reasonable retirement benefits to its employees and officers. The amendments clarify the scope of the rule and the investments an FCU may use to fund employee benefits.

DATES: This final rule is effective May 30, 2003.

FOR FURTHER INFORMATION CONTACT: Frank Kressman, Staff Attorney, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

NCUA issued a proposed rule in December 2001 to clarify that the scope of § 701.19, which states an FCU may provide reasonable retirement benefits for its employees and officers, is not limited only to retirement benefits, but is more broadly applicable to other employee benefit plans. 66 FR 65662 (December 20, 2001). The proposal incorporated into § 701.19 a number of opinions issued by NCUA's Office of General Counsel that provide an FCU may purchase an otherwise impermissible investment to fund an employee benefit obligation if the investment is directly related to the obligation, and may hold the investment for as long as it has an actual or potential obligation. This direct relationship requirement is the legal basis on which NCUA permits FCUs to make otherwise impermissible investments to fund employee benefits. NCUA received fifteen comments to the proposal. The comments were generally supportive, but raised investment issues relating to particular benefit plans.

NCUA issued a second proposal in September 2002 to address these issues and others raised outside of the rulemaking process. 67 FR 60184 (September 25, 2002). The second proposal distinguished defined contribution plans from various kinds of defined benefit plans. In the second proposal, NCUA was particularly concerned about FCUs investing to fund defined benefit plans as these plans place investment performance risk on FCUs and make it more difficult for FCUs to demonstrate a direct relationship between an investment and the obligation it serves to fund.

NCUA distinguished defined benefit plans covered by the fiduciary responsibility provisions of the Employee Retirement Income Security Act of 1974 (ERISA) from those that are not. 29 U.S.C. 1101–14. NCUA determined that the ERISA requirements, which provide for a trust and place obligations on the trustee to act prudently on behalf of plan participants and beneficiaries, would safeguard against the legal and safety and soundness risks about which NCUA is concerned. For defined benefit plans not covered by ERISA's fiduciary responsibility provisions, NCUA proposed that investments to fund these plans must have a fixed rate of return, mature on or before the date of the employee benefit obligation, and be rated by a nationally recognized statistical rating organization in one of the four highest rating categories. NCUA believed that these broad criteria would support the determination that an investment is directly related to the employee benefit it is intended to fund and, in addition, address the safety and soundness concerns presented by these otherwise unrestricted investments.

NCUA extended the expiration of the comment period from November 25, 2002 to December 26, 2002. 67 FR 71113 (November 29, 2002).

B. Summary of Comments to the Second Proposed Rule

NCUA received twenty-six comment letters regarding the second proposed rule: nine from FCUs, one from a state credit union, thirteen from credit union trade organizations, one from an insurance company, one from a corporate credit union and one from a law firm. Five commenters expressed complete support for the proposal and did not object to any provisions. All but a few of the remaining commenters expressed general support for NCUA's intent to provide flexibility to FCUs investing to fund employee benefits. Commenters focused primarily on two aspects of the second proposed rule: the requirement that any investments purchased under this authority must be directly related to an FCU's obligation to fund employee benefits and the particular requirements proposed for defined benefit plans.

Directly Related Requirement. Some commenters stated that the requirement that an investment to fund an employee benefit be directly related to the FCU's obligation is new or would be too restrictive for certain employee benefit plans. This requirement was stated in the first proposal as well as the second proposed rule. While the particular terminology may be different, this requirement is not new for FCUs. As noted previously, this provision incorporates into the regulation NCUA's long standing position as reflected in legal opinions issued by NCUA's Office of General Counsel.

These legal opinions state NCUA's view that FCUs have the authority to purchase investments otherwise impermissible under the Federal Credit Union Act and NCUA's regulations if the investments are intended to fund an employee benefit. This requisite relationship is the legal basis, as has been previously discussed, which permits these investments. These legal opinions have addressed specific proposed retirement or benefit plans, for the most part defined contribution plans, and have focused on various criteria such as the reasonableness of the benefit in relation to the credit union's size and financial condition. In addition, these letters have noted that the ability of an FCU to make these otherwise impermissible investments is based on the legal premise that an FCU is not investing for its own account and is subject to restriction, such as the investments may only be held for as long as an FCU has an obligation under the retirement or benefit plan. For this reason, NCUA has declined to adopt alternative language proposed by a couple of commenters that an investment need only be reasonably

related to an employee benefit. That language could arguably permit an FCU to make larger than necessary investments or hold investments longer than necessary to meet the employee benefit obligation, which would indicate an FCU was investing for its own account. The requirement in the regulation that investments must be directly related to the employee benefit obligation is intended to capture prior legal analysis and state simply and succinctly the requirements applicable to investments made to fund employee benefits.

While some commenters would like NCUA to specify the types of records or record keeping that would demonstrate that an investment is directly related to funding an employment benefit, NCUA is reluctant to impose specific requirements given the broad range of employee benefit plans and funding options that exist. NCUA believes that, if an FCU is holding an otherwise impermissible investment to fund an employee benefit, the FCU's records should reflect that the FCU purchased the investment exclusively for the purpose of funding the employee benefit obligation. Information in an FCU's records that would demonstrate this purpose might include: employee benefit plan documents, date or dates of investment purchases consistent with the assumption of the employee benefit obligation, anticipated maturity of the investment, and evidence that the FCU has calculated the amount of the investment and the anticipated return from the investment to match the FCU's obligation.

Defined Benefit Plans. Half of the commenters stated that prohibiting variable rate investments to fund defined benefit plans not subject to ERISA is too restrictive. About the same number also stated or implied NCUA has ample authority to regulate the safety and soundness of these investments through its examination and supervision program. Ten commenters contended that, if FCUs are subject to additional investment restrictions, they will have higher costs of funding employee benefits and will be at a disadvantage in competing for talented employees with state-chartered credit unions and other financial institutions.

The NCUA Board has decided not to distinguish between defined benefit and defined contribution plans in the final rule or place additional requirements on defined benefit plans not covered by ERISA. Thus, all employee benefit plans will be subject to the general requirements set out in both the first and second proposed rules, namely, that an investment to fund an employee benefit must be directly related to the FCU's obligation, may only be held as long as the FCU is obligated, and the amount must be reasonable given the size and condition of the FCU. NCUA believes this approach will maximize investment flexibility and minimize confusion and competitive disadvantage for FCUs.

NCUA still believes, as noted in the second proposal, that defined benefit plans not subject to ERISA pose additional risks for FCUs and, for that reason, has included in the regulation guidance regarding diversification of investments. NCUA believes an FCU investing to fund a defined benefit plan not subject to ERISA should diversify its investment portfolio, which may include investments in insurance products, to minimize the risk of large losses, unless it is clearly prudent not to do so under the circumstances.

Regardless of what kind of investment plan is used, an FCU must comply with safety and soundness standards by ensuring that the kind and amount of employee benefits it offers are reasonable given its size, financial condition, and the duties of the employees. Furthermore, an FCU's authority to offer and fund an employee benefit plan does not guarantee the permissibility or treatment of the plan under other laws, such as ERISA and the Internal Revenue Code.

Finally, § 701.19(e) provides that an FCU acting as a fiduciary, as defined in ERISA, must obtain appropriate liability coverage as provided in § 410(b) of ERISA. NCUA wishes to clarify that § 410(b) of ERISA describes certain kinds of insurance coverage and permits certain parties to purchase that insurance, but does not require any party to purchase insurance. 29 U.S.C. 1110.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed regulation may have on a substantial number of small entities (under $1 million in assets). This rule clarifies that federal credit unions have additional options and flexibility to manage their employee benefit obligations without imposing any regulatory burden. The final amendments will not have a significant economic impact on a substantial number of small credit unions and, therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that the final rule would not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The final rule would not have substantial direct effects on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this final rule would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act. 5 U.S.C. 551. The Office of Management and Budget has determined that this rule is not a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 701

Credit Unions.

By the National Credit Union Administration Board on April 24, 2003.

Becky Baker,

Secretary of the Board.

■ Accordingly, NCUA amends 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717.

Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*; 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 2. Revise § 701.19 to read as follows:

§ 701.19 Benefits for Employees of Federal Credit Unions.

(a) *General authority.* A federal credit union may provide employee benefits, including retirement benefits, to its employees and officers who are compensated in conformance with the Act and the bylaws, individually or collectively with other credit unions. The kind and amount of these benefits must be reasonable given the federal credit union's size, financial condition, and the duties of the employees.

(b) *Plan trustees and custodians.* Where a federal credit union is the benefit plan trustee or custodian, the plan must be authorized and maintained in accordance with the provisions of part 724 of this chapter. Where the benefit plan trustee or custodian is a party other than a federal credit union, the benefit plan must be maintained in accordance with applicable laws governing employee benefit plans, including any applicable rules and regulations issued by the Secretary of Labor, the Secretary of the Treasury, or any other federal or state authority exercising jurisdiction over the plan.

(c) *Investment authority.* A federal credit union investing to fund an employee benefit plan obligation is not subject to the investment limitations of the Act and part 703 or, as applicable, part 704, of this chapter and may purchase an investment that would otherwise be impermissible if the investment is directly related to the federal credit union's obligation or potential obligation under the employee benefit plan and the federal credit union holds the investment only for as long as it has an actual or potential obligation under the employee benefit plan.

(d) *Defined benefit plans.* Under paragraph (c) of this section, a federal credit union may invest to fund a defined benefit plan if the investment meets the conditions provided in that paragraph. If a federal credit union invests to fund a defined benefit plan that is not subject to the fiduciary responsibility provisions of part 4 of the Employee Retirement Income Security Act of 1974, it should diversify its investment portfolio to minimize the risk of large losses unless it is clearly prudent not to do so under the circumstances.

(e) *Liability insurance.* No federal credit union may occupy the position of a fiduciary, as defined in the Employee Retirement Income Security Act of 1974 and the rules and regulations issued by the Secretary of Labor, unless it has obtained appropriate liability insurance as described and permitted by Section 410(b) of the Employee Retirement Income Security Act of 1974.

(f) *Definitions.* For this section, defined benefit plan has the same meaning as in 29 U.S.C. 1002(35) and employee benefit plan has the same meaning as in 29 U.S.C. 1002(3).

[FR Doc. 03–10614 Filed 4–29–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 741

Requirements for Insurance

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The National Credit Union Administration (NCUA) is adopting a final rule that establishes the requirements for federally insured credit unions to branch outside the United States. The final rule requires a credit union to develop a business plan and receive foreign government and NCUA approval before establishing a branch outside the United States.

DATES: This regulation is effective July 1, 2003.

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Senior Staff Attorney, Division of Operations, Office of General Counsel, telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION: On September 7, 2000, the Board issued an advance notice of proposed rulemaking (ANPR). (65 FR 55464, September 14, 2000). The comment period for the ANPR ended on November 14, 2000. The key issues raised in the ANPR included: NCUA Board policy considerations, legal issues, supervision and examination considerations, options for insuring foreign branches of state-chartered credit unions, and options for restricting insurance coverage for state-chartered credit unions operating foreign branches.

On September 19, 2002, after carefully considering the comments and discussing the issue with state regulators, the NCUA Board issued a proposed rule that requires a credit union to obtain host country approval and develop a comprehensive business plan in order to obtain NCUA approval to establish a branch in a foreign country. (67 FR 60607, September 26, 2002). A federally insured, state-chartered credit union would also have to obtain state regulatory approval.

Comments

Twenty-one comments were received. Comments were received from eight federal credit unions, three state-chartered credit unions, four state leagues, three credit union trade associations, two attorneys, and one bank trade association. In general, most commenters support the proposal. Six commenters applauded the Board's decision to include federal credit unions in this proposal.

Three commenters opposed the proposal. Two of these commenters believe foreign branches inherently carry more risk than domestic branches. They believe that although the proposal minimizes risk, it is not eliminated. They suggest that foreign branches would be prime targets for money laundering. Finally, they believe that foreign branches will be costly to the National Credit Union Share Insurance Fund (NCUSIF) and, thus, federally insured credit unions.

Discussion

The NCUA Board proposed a three-step process to branch outside the United States. Most commenters supported the three-step process but suggested some changes to the proposal.

First, under the proposal, a credit union must receive written approval from the host country to establish the branch that explicitly recognizes NCUA's authority to examine and take any enforcement action with regard to that branch office, including conservatorship and liquidation actions. If a credit union is state-chartered, it must also obtain written approval from its state supervisory agency and submit the approval with the application.

Three commenters did not support this first requirement. One commenter believes it may be difficult for a credit union to obtain host country approval recognizing NCUA's authority. All three commenters believe this is an issue that should be worked on between NCUA and the various host countries.

One commenter requested that the rule language on host country approval should read "that explicitly recognizes

NCUA's authority, in consultation with the host country, to examine and take mutually agreeable enforcement action with regard to that branch office.'' One commenter stated that it recognizes that NCUA is not seeking exclusive authority over the branch and anticipates the host country also will be in a position to exercise regulatory authority under its own regulatory framework and believes this should be stated in the rule. Another commenter believes NCUA should regulate the foreign branches of credit unions jointly with the foreign banking regulators. One commenter believes an enforcement conflict might occur if a host country requires the branch to have host country deposit insurance.

The NCUA Board believes, for safety and soundness reasons, it is critical for a credit union to obtain host country approval and recognition of NCUA's authority. To require less would pose an undue risk to the NCUSIF. The Board is not requiring exclusive authority over a foreign branch and recognizes that a host country also will have some regulatory authority over a foreign branch office. NCUA, however, must have the right to examine a foreign branch and take any necessary enforcement actions. Finally, NCUA does not have the legal authority to engage in discussions or enter into agreements with foreign governments on the establishment of branches. The Board believes the proper party to obtain host country approval is the credit union seeking NCUA's approval. Credit unions wishing to engage in this activity also might want to obtain the assistance of their trade associations and state leagues in communicating with foreign governments.

Second, under the proposal, a credit union must develop a detailed business plan that addresses the following: (1) Analysis of market conditions in the area where the branch is to be established; (2) the credit union's plan for addressing foreign currency risk; (3) operating facilities, including office space, equipment and supplies; (4) safeguarding of assets, insurance coverage, and records preservation; (5) written policies regarding the branch (shares, lending, capital, charge-offs, collections); (6) the field of membership or portion of the field of membership to be served through the foreign branch and the financial needs of the members to be served and services and products to be provided; (7) detailed *pro forma* financial statements for branch operations (balance sheet and income and expense projections) for the first and second year, including assumptions; (8) internal controls, including cash disbursal procedures for shares and loans at the branch; (9) accounting procedures used to identify branch activity and performance; and (10) foreign income taxation.

Four commenters agreed with the business plan requirement. Four commenters stated that the services offered through the foreign branch should be limited to those approved by NCUA. Two commenters that believe all assets of a foreign branch should be required to be denominated in U.S. dollars stated that, if all the assets of the foreign branch were U.S. dollar denominated, there would be no need to address currency risk in the business plan. The Board is not mandating that all assets be denominated in U.S. dollars to provide flexibility in establishing a branch; however, as discussed below, if a credit union wants federal share insurance for the deposits in a foreign branch, then assets must be denominated in U.S. dollars.

One commenter stated the business plan requirement should only be for federal credit unions. Four commenters believe the business plan requirements are excessive and suggested that it be streamlined. Another commenter also believes the business plan is excessive and should only consider the overall strength of the credit union (CAMEL 1 or CAMEL 2) and the competency of the credit union's management. Two commenters stated that field of membership should not be addressed in the business plan. One commenter would delete the requirement for a market analysis. A few commenters suggested that regional directors should be encouraged to consider relevant employment laws of the host country and whether an applicant credit union is fully aware of the impact of such laws.

The NCUA Board believes that the business plan requirements are prudent and the minimum a credit union should consider before establishing a foreign branch. The Board agrees that knowledge of foreign employment laws is also an important component in determining whether to establish a foreign branch and has added that to the business plan. The Board also clarified in the final rule that credit unions need to address the issue of bond coverage in the business plan.

Third, under the proposal, a state-chartered credit union must submit documentation showing state regulator approval. One commenter supported this requirement. Four commenters believe that NCUA should not be involved in the approval process for state-chartered credit unions. Three of these commenters believe NCUA should not approve a branch, but only approve insurance coverage for a branch. They believe that, once NCUA has approved a country for federal insurance, then no further NCUA approval should be necessary for federally insured state-chartered credit unions.

A foreign branch poses significantly greater risk to the NCUSIF than a domestic branch. Although this rule minimizes risk, it certainly does not eliminate it. Therefore, whether a credit union is state-chartered or federally-chartered, the risk to the NCUSIF is the same, and NCUA must have the final authority to approve or disapprove a foreign branch.

Under the proposal, the regional director has 60 days to approve the application, but may extend the time period for good cause. The regional director may revoke approval of a foreign branch office for failure to follow the business plan in any material respect or for substantive and documented safety and soundness reasons. If the credit union wants to make a material deviation from its previously approved business plan, it must submit a new business plan for approval. If the regional director revokes the approval, a credit union has six months from the date of the revocation letter to terminate the operations of the branch. The credit union can appeal this revocation directly to the NCUA Board. One commenter fully supported the revocation process.

Four commenters requested that the central office, not the regional directors, process the approval and revocation of foreign branches because they believe central office staff will be more knowledgeable about the issues. Two commenters request that NCUA state that the six-month revocation period starts to run only after the regional director decision or after a decision on an appeal to the NCUA Board has been rendered, whichever is later.

The NCUA Board is retaining in the final rule the revocation process as proposed. It is anticipated that regional offices will consult with central office staff when they believe it is necessary. The Board is not changing the six-month time frame for the closing of a branch while a decision is under appeal because of safety and soundness considerations. If a credit union files an appeal after receiving a notice of revocation from a regional director, it must continue to plan on closing the branch within six months. Filing an appeal will not toll the running of the six-month period for closure of a foreign branch. The Board believes it will be able to consider appeals of a revocation expeditiously and notes that a credit

union that has received a revocation and wishes to appeal to the Board must submit its appeal within 30 days of the revocation letter.

Three commenters believe that the state regulator should have unilateral authority to approve and revoke foreign branch activity. One commenter wondered how coordination with the state regulator would occur in the event the state regulator wishes to revoke approval of the branch office. The NCUA Board wishes to clarify that if a state regulator wishes to revoke approval of a foreign branch, NCUA's concurrence is not necessary. The Board, however, has added a sentence to the rule requiring the state regulator to notify NCUA after it issues a notice of revocation.

The NCUA Board decided not to propose any field of membership restrictions on the foreign branch or capital requirements above those required by NCUA's prompt corrective action rule. 12 CFR part 702. Three commenters agreed with the Board's decision not to propose field of membership restrictions or impose additional capital requirements for credit unions that want to branch in foreign countries. One commenter requested that the final rule address how a credit union can expand its field of membership in the foreign country. A federal credit union can expand its field of membership in the manner set forth in NCUA's Chartering and Field of Membership Manual. A state chartered credit union should look to applicable state law.

The Board clarified in the proposal that a representation office or a liaison office is not a branch office for purposes of this regulation. NCUA's understanding is that such offices do not engage in processing loan applications and do not disburse loans. Rather loan documents are transferred from the liaison office to the credit union's main office in the United States where loan decisions are made and loan disbursals are made in U.S. dollars. Two commenters appreciated and supported this clarification. The Board concurs with the commenter who stated that an ATM is not a branch for purposes of this rule.

On the issue of insurance, the NCUA Board stated that if there are no changes to NCUA's insurance regulation, a federally insured credit union that opens a branch office outside the United States would have its member share accounts at that branch federally insured. The NCUA Board also stated that the credit union's business plan would be required to address the insured status of member accounts and, in any event, accounts would be insured by the NCUSIF only if denominated in U.S. dollars and only if payable, by the term of the account agreement, at a U.S. office of the credit union. If the host country requires insurance from its own system, accounts would not be insured by the NCUSIF. The NCUA Board also requested specific comment on the insurance issue.

Ten commenters agreed with NCUA's view on insurance coverage. Two of these commenters believe the proposal mitigates the additional risk to the NCUSIF that accompany foreign branch activity. One commenter believes that insuring accounts in branches that are not located either on military installations or U.S. embassies is entirely inappropriate.

One commenter does not believe the NCUSIF should cover foreign branch deposits unless that is part of an agreement between the two countries' regulatory and insurance authorities. One commenter stated that NCUA should insure deposits up to the U.S. limit except in those countries where the NCUA has specifically negotiated other arrangements with the foreign government. One commenter believes NCUSIF coverage should be mandatory for accounts opened at the foreign branch of a federally-insured credit union but believes that NCUSIF coverage should only be secondary if the foreign branch also carries foreign share insurance.

The NCUA Board believes that the proposed insurance treatment of foreign branches is reasonable, mitigates risks, and provides credit unions with significant flexibility.

Therefore, to receive NCUA's approval for a foreign branch, a credit union must address in its business plan how accounts will be insured and agree that accounts would be insured by the NCUSIF only if denominated in U.S. dollars and only if payable, by the terms of the account agreement, at a U.S. office of the credit union. If the host country requires insurance from its own system, accounts will not be insured by the NCUSIF. To avoid any confusion on this issue the NCUA Board is adding a section (e) to the rule to address insurance treatment at foreign branches.

Miscellaneous

One commenter encouraged the Board to amend Part 703 to allow additional investment tools to hedge currency risk via derivative instruments. Proposed revisions to Part 703 have been issued for comment and the NCUA Board will consider such recommended changes in the context of finalizing that rule. One commenter thought the phrase ''take action'' in § 741.11(a) was ambiguous and should be rephrased. Although the Board did not find the phrase ambiguous, it changed the term to ''approve or deny'' to avoid any confusion.

Four commenters stated that credit unions with foreign branches should pay for any additional cost NCUA or NCUSIF might incur in examining their foreign branches. A few commenters believe that NCUA should mandate that its examiners routinely inspect the foreign branches at the expense of the credit unions with those branches. Two commenters asked for more clarification on how NCUA will carry out its regular examination functions of a credit union branch located in a foreign country. At this time, the NCUA Board is not planning on imposing any additional fees on credit unions with foreign branches and is not planning on any significant changes in the examination process. NCUA will continue to monitor the establishment of foreign branches and will revisit both issues after gaining some experience with this activity.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any final regulation may have on a substantial number of small entities (those under one million dollars in assets). The NCUA Board has determined and certifies that the final rule will not have a significant economic impact on a substantial number of small credit unions. The reason for this determination is that the Board believes it is very unlikely that small credit unions have the financial capability and experience to establish a branch in a foreign country. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The paperwork requirements in § 741.11 have been submitted to the Office of Management and Budget. NCUA will publish the OMB control number as soon as it is issued. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless NCUA displays a valid OMB number. The control number will be displayed in the table at 12 CFR part 795.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on

state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The executive order states that: ''National action limiting the policymaking discretion of the states shall be taken only where there is constitutional and statutory authority for the action and the national activity is appropriate in light of the presence of a problem of national significance.'' The risk of loss to federally insured credit unions and the NCUSIF caused by the establishment of foreign branches is a concern of national scope. The final rule helps assure that proper safeguards are in place to ensure the safety and soundness of federally insured credit unions that establish branches in foreign countries.

The final rule applies to all federally insured credit unions. NCUA believes that the protection of those credit unions, and ultimately the NCUSIF, warrants application of the final rule to all federally insured credit unions. The final rule does not impose additional costs or burdens on the states or affect the states' ability to discharge traditional state government functions. NCUA has determined that this rule may have an occasional 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. The potential risk to the NCUSIF without the rule justifies this action.

The Treasury and General Government Appropriations Act, 1999—-Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Management and Budget has determined that this is not a major rule.

List of Subjects in 12 CFR Part 741

Bank deposit insurance, Credit unions.

By the National Credit Union Administration Board on April 24, 2003.

Becky Baker,

Secretary of the Board.

■ For the reasons set forth in the preamble, the National Credit Union Administration amends 12 CFR part 741 as follows:

PART 741—REQUIREMENTS FOR INSURANCE

■ 1. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766(a), and 1781–1790; Pub. L. 101–73.

■ 2. Add §741.11 to subpart A to read as follows:

§ 741.11 Foreign branching.

(a) *Application and Prior NCUA Approval Required.* Any credit union insured under Title II of the Act must apply for and receive approval from the regional director before establishing a credit union branch outside the United States unless the foreign branch is located on a United States military instillation or embassy outside the United States. The regional director will have 60 days to approve or deny the request.

(b) *Contents of Application.* The application must include a business plan, written approval by the state supervisory agency if the applicant is a state-chartered credit union, and documentation evidencing written permission from the host country to establish the branch that explicitly recognizes NCUA's authority to examine and take any enforcement action, including conservatorship and liquidation actions.

(c) *Contents of Business Plan.* The written business plan must address the following:

(1) Analysis of market conditions in the area where the branch is to be established;

(2) The credit union's plan for addressing foreign currency risk;

(3) Operating facilities, including office space/equipment and supplies;

(4) Safeguarding of assets, bond coverage, insurance coverage, and records preservation;

(5) Written policies regarding the branch (shares, lending, capital, charge-offs, collections);

(6) The field of membership or portion of the field of membership to be served through the foreign branch and the financial needs of the members to be served and services and products to be provided;

(7) Detailed *pro forma* financial statements for branch operations (balance sheet and income and expense projections) for the first and second year including assumptions;

(8) Internal controls including cash disbursal procedures for shares and loans at the branch;

(9) Accounting procedures used to identify branch activity and performance; and

(10) Foreign income taxation and employment law.

(d) *Revocation of Approval.* A state regulator that revokes approval of the branch office must notify NCUA of the action once it issues the notice of revocation. The regional director may revoke approval of the branch office for failure to follow the business plan in a material respect or for substantive and documented safety and soundness reasons. If the regional director revokes the approval, the credit union will have six months from the date of the revocation letter to terminate the operations of the branch. The credit union can appeal this revocation directly to the NCUA Board within 30 days of the date of the revocation letter.

(e) *Insurance Coverage.* Accounts at foreign branches are insured by the NCUSIF only if denominated in U.S. dollars and only if payable, by the terms of the account agreement, at a U.S. office of the credit union. If the host country requires insurance from its own system, accounts will not be insured by the National Credit Union Share Insurance Fund.

[FR Doc. 03–10612 Filed 4–29–03; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720–AA66

TRICARE Program; Eligibility and Payment Procedures for Civilian Health and Medical Program of the Uniformed Services Beneficiaries Age 65 and Over

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule implements section 712 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. Section 712 extends TRICARE eligibility to beneficiaries age 65 and over who would otherwise have lost their TRICARE eligibility due to attainment of entitlement to hospital

insurance benefits under Part A of Medicare.

DATES: This rule was effective October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Stephen E. Isaacson, Medical Benefits and Reimbursement Systems, TMA, telephone (303) 676–3572.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule Provisions

This fine rule implements section 712 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398, 114 Stat. 1654), and was effective October 1, 2001. It extends TRICARE eligibility to beneficiaries age 65 and over. This beneficiary group previously lost TRICARE eligibility due to attaining entitlement to hospital insurance benefits under Part A of Medicare. In order for these individuals to retain their TRICARE eligibility, they must be enrolled in the supplementary medical insurance program under Part B of Medicare. In general, in the case of medical or dental care provided to these individuals for which payment may be made under both Medicare and TRICARE, Medicare is the primary payer and TRICARE will normally pay the actual out-of-pocket costs incurred by the person. This rule prescribes TRICARE payment procedures and makes revisions to TRICARE rules to accommodate Medicare-eligible CHAMPUS beneficiaries.

The reader should refer to the interim final rule that was published on August 3, 2001, (66 FR 40601) for detailed information regarding eligibility requirements, the scope of the benefit, and other aspects of this significant expansion of the Military Health System.

We also want to clarify an erroneous statement in the preamble to the interim final rule. Since the error was in the preamble and not in the regulatory language, it does not actually affect this final rule, but we want to ensure the TRICARE policy is understood. In section C. of the supplementary information on page 40603, we stated in two places that if a TRICARE-required preauthorization is not obtained, TRICARE will make no payment. This is not correct. If a required preauthorization is not obtained, TRICARE will still pay for any covered services, but the TRICARE payment will be reduced by not less than 10 percent.

II. Public Comments

We issued this rule as an interim final rule, with comment period, as an exception to our standard practice of soliciting public comments prior to issuance. The Assistant Secretary of Defense (Health Affairs) determined that following the standard practice would have been impracticable, unnecessary, and contrary to public interest. This determination was based on the fact that this change directly implemented a statutory entitlement enacted by Congress expressly for this purpose, with a statutory effective date of October 1, 2001. Public comments were invited, though, and we received comments from one individual.

Comment—Individuals who are over age 65, are currently employees of the U.S. Government, are retired from the military, and meet all eligibility requirements for TFL, should be able to drop their coverage under the Federal Employees Health Benefits Program (FEHBP) and subsequently re-enroll in the FEHBP during any open season with no penalty.

Response—This is permitted.

Comment—TRICARE should pay any premium and deductible costs for employer-provided insurance for individuals eligible for TFL and who are employed. Alternatively, any such costs paid by individuals eligible for TFL should be applied to that individual's catastrophic cap.

Response—TRICARE has statutory authority only to pay for medically necessary services and supplies. We have no authority to pay for the type of costs identified in this comment. Therefore, this type of change goes beyond the regulatory process and would require a legislative change.

Comment—An individual who is eligible for TFL and is also enrolled in employer-provided health insurance should not have to file the paperwork, *i.e.*, submit claims. Providers should be required to submit all claims.

Response—We cannot, through the regulatory process, require providers to submit claims to employer-provided health insurance plans that are primary to TRICARE. Nevertheless, we recognize that having to submit claims can present a significant burden to our beneficiaries, but there are several things that mitigate this burden. Under current procedures for both TRICARE and Medicare, providers are required to submit the claim in the vast majority of cases. More importantly, we have gone to great efforts to establish a process under TFL so that after the Medicare contractors process a claim, they send the claims directly to the appropriate TRICARE contractor with no beneficiary action required. As a result, there are almost no instances where beneficiaries have had to submit their claim to TRICARE.

III. Changes in the Final Rule

The only change we have made to the language in the interim final rule is to clarify certain provisions in § 199.17 regarding TRICARE Standard. In the interim final rule there were a number of areas where enrollment in TRICARE Standard was explicitly stated or implied. TRICARE Standard is the default coverage under TRICARE, and there is no enrollment action required of beneficiaries to be covered under Standard. We have, therefore, reworded various places in § 199.17 to ensure that this is clear. These changes have no substantive effect on the policies or procedures contained in either the interim final rule or this final rule.

IV. Regulatory Procedures

This final rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511).

Executive Order 12866 requires certain regulatory assessments for any significant regulatory action, defined as one which would result in an annual effect on the economy of $100 million or more, or have other substantial impacts. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This final rule is an economically significant regulatory action under Executive Order 12866, as it implements a statutory program that has added about $1.7 billion for DoD in annual healthcare benefit and administrative costs based on cost data collected for October 1, 2001, through September 30, 2002. These costs exclude pharmacy benefits that are addressed in the rulemaking for the TRICARE Senior Pharmacy Program. The benefits of this final rule include an increased level of health care for Medicare-eligible beneficiaries of the Department of Defense military health system. It has been determined to be major under the Congressional Review Act. However, this rule does not require a regulatory flexibility analysis, as it is not economically significant and will not significantly affect a substantial number of small entities. This rule has been designated as significant and has been reviewed by the Office of Management and Budget as required under the provisions of E.O. 12866.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, Military personnel.

■ Accordingly, 32 CFR part 199 is amended to read as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301 and 10 U.S.C. chapter 55.

■ 2. Section 199.2(b) is amended by adding at the appropriate place in alphabetical order the following definition:

§ 199.2 Definitions.

* * * * *

(b) * * *

Director, TRICARE Management Activity. This term includes the Director, TRICARE Management Activity, the official sometimes referred to in this part as the Director, Office of CHAMPUS (or OCHAMPUS), or any designee of the Director, TRICARE Management Activity or the Assistant Secretary of Defense for Health Affairs who is designated for purposes of an action under this part.

■ 3. Section 199.3 is amended by revising paragraphs (b)(2)(i)(D), (f)(3)(vi), and (f)(3)(vii) and the note following paragraph (f)(3)(vii) to read as follows:

§ 199.3 Eligibility.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(D) Must not be eligible for Part A of Title XVIII of the Social Security Act (Medicare) except as provided in paragraphs (f)(3)(vii), (f)(3)(viii), and (f)(3)(ix) of this section; and

* * * * *

(f) * * *

(3) * * *

(vi) Attainment of entitlement to hospital insurance benefits (Part A) under Medicare except as provided in paragraphs (f)(3)(vii), (f)(3)(viii), and (f)(3)(ix) of this section. (This also applies to individuals living outside the United States where Medicare benefits are not paid.)

(vii) Attainment of age 65, except for dependents of active duty members, beneficiaries not entitled to part A of Medicare, and beneficiaries entitled to Part A of Medicare who have enrolled in Part B of Medicare. For those who do not retain CHAMPUS, CHAMPUS eligibility is lost at 12:01 a.m. on the first day of the month in which the beneficiary becomes entitled to Medicare.

Note: If the person is not eligible for Part A of Medicare, he or she must file a Social Security Administration ''Notice of Disallowance'' certifying to that fact with the Uniformed Service responsible for the issuance of his or her identification card so a new card showing CHAMPUS eligibility can be issued. Individuals entitled only to supplementary medical insurance (Part B) of Medicare, but no Part A, or Part A through the Premium HI provisions (provided for under the 1972 Amendments to the Social Security Act) retain eligibility under CHAMPUS (refer to § 199.8 for additional information when a double coverage situation is involved).

* * * * *

■ 4. Section 199.8 is amended by redesignating paragraph (c)(5) as (c)(6) and the second paragraph (c)(4) as (c)(5) and by revising paragraph (d)(1) to read as follows:

§ 199.8 Double Coverage.

* * * * *

(d) *Special consideration.*—(1) *CHAMPUS and Medicare.*—(i) *General rule.* In any case in which a beneficiary eligible for both Medicare and CHAMPUS receives medical or dental care for which payment may be made under Medicare and CHAMPUS, Medicare is always the primary payer. For dependents of active duty members, payment will be determined in accordance to paragraph(c) of this section. For all other beneficiaries eligible for Medicare, the amount payable by CHAMPUS shall be the amount of the actual out-of-pocket costs incurred by the beneficiary for that care over the sum of the amount paid for that care under Medicare and the total of all amounts paid or payable by third party payers other than Medicare.

(ii) *Payment limit.* The total CHAMPUS amount payable for care under paragraph (d)(1)(i) of this section may not exceed the total amount that would be paid under CHAMPUS if payment for that care were made solely under CHAMPUS.

(iii) *Application of general rule.* In applying the general rule under paragraph (d)(1)(i) of this section, the first determination will be whether payment may be made under Medicare. For this purpose, Medicare exclusions, conditions, and limitations will be the basis for the determination.

(A) For items or services or portions or segments of items or services for which payment may be made under Medicare, the CHAMPUS payment will be the amount of the beneficiary's actual out of pocket liability, minus the amount payable by Medicare, also minus amount payable by other third party payers, subject to the limit under paragraph (d)(1)(ii) of this section.

(B) For items or services or segments of items or services for which no payment may be made under Medicare, the CHAMPUS payment will be the same as it would be for a CHAMPUS eligible retiree, dependent, or survivor beneficiary who is not Medicare eligible.

(iv) *Examples of applications of general rule.* The following examples are illustrative. They are not all-inclusive.

(A) In the case of a Medicare-eligible beneficiary receiving typical physician office visit services, Medicare payment generally will be made. CHAMPUS payment will be determined consistent with paragraph (d)(1)(iii)(A) of this section.

(B) In the case of a Medicare-eligible beneficiary residing and receiving medical care overseas, Medicare payment generally may be made. CHAMPUS payment will be determined consistent with paragraph (d)(1)(iii)(B) of this section.

(C) In the case of a Medicare-eligible beneficiary receiving skilled nursing facility services a portion of which is payable by Medicare (such as during the first 100 days) and a portion of which is not payable by Medicare (such as after 100 days), CHAMPUS payment for the first portion will be determined consistent with paragraph (d)(1)(iii)(A) of this section and for the second portion consistent with paragraph (d)(1)(iii)(B) of this section.

(v) *Application of catastrophic cap.* Only in cases in which CHAMPUS payment is determined consistent with paragraph (d)(1)(iii)(B) of this section, actual beneficiary out of pocket liability remaining after CHAMPUS payments will be counted for purposes of the annual catastrophic loss protection, set forth under § 199.4(f)(10). When a family has met the cap, CHAMPUS will pay allowable amounts for remaining covered services through the end of that fiscal year.

(vi) *Effect of enrollment in Medicare+Choice plan.* In the case of a beneficiary enrolled in a Medicare+Choice plan who receives items or services for which payment may be made under both the Medicare+Choice plan and CHAMPUS, a claim for the beneficiary's normal out-of-pocket costs under the Medicare+Choice plan may be submitted for CHAMPUS payment. However, consistent with paragraph (c)(4) of this section, out-of-pocket costs do not include costs associated with unauthorized out-of-system care or care otherwise obtained under circumstances that result in a denial or limitation of coverage for care that would have been

covered or fully covered had the beneficiary met applicable requirements and procedures. In such cases, the CHAMPUS amount payable is limited to the amount that would have been paid if the beneficiary had received care covered by the Medicare+Choice plan.

(vii) *Effect of other double coverage plans, including medigap plans.* CHAMPUS is second payer to other third-party payers of health insurance, including Medicare supplemental plans.

(viii) *Effect of employer-provided insurance.* In the case of individuals with health insurance due to their current employment status, the employer insurance plan shall be first payer, Medicare shall be the second payer, and CHAMPUS shall be the tertiary payer.

* * * * *

■ 5. Section 199.10 is amended by revising paragraph (a)(1)(ii) to read as follows:

§ 199.10 Appeal and hearing procedures.

(a) * * *

(1) * * *

(ii) *Effect of initial determination.* (A) The initial determination is final unless appealed in accordance with this chapter, or unless the initial determination is reopened by the TRICARE Management Activity, the CHAMPUS contractor, or the CHAMPUS peer review organization.

(B) An initial determination involving a CHAMPUS beneficiary entitled to Medicare Part A, who is enrolled in Medicare Part B, may be appealed by the beneficiary or their provider under this section of this Part only when the claimed services or supplies are payable by CHAMPUS and are not payable under Medicare. Both Medicare and CHAMPUS offer an appeal process when a claim for healthcare services or supplies is denied and most healthcare services and supplies are a benefit payable under both Medicare and CHAMPUS. In order to avoid confusion on the part of beneficiaries and providers and to expedite the appeal process, services and supplies denied payment by Medicare will not be considered for coverage by CHAMPUS if the Medicare denial of payment is appealable under Medicare. Because such claims are not considered for payment by CHAMPUS, there can be no CHAMPUS appeal. If, however, a Medicare claim or appeal results in some payment by Medicare, the services and supplies paid by Medicare will be considered for payment by CHAMPUS. In that situation, any decision to deny CHAMPUS appealable issues involving Medicare-eligible CHAMPUS beneficiaries are illustrative; they are not all-inclusive:

(*1*) If Medicare processes a claim for a healthcare service or supply that is a Medicare benefit and the claim is denied by Medicare for a patient-specific reason, the claim is appealable through the Medicare appeal process. The Medicare decision will be final if the claim is denied by Medicare. The claimed services or supplied will not be considered for CHAMPUS payment and there is not CHAMPUS appeal of the CHAMPUS decision denying the claim.

(*2*) If Medicare processes a claim for a healthcare service or supply that is a Medicare benefit and the claim is paid, either on initial submission or as a result of a Medicare appeal decision, the claim will be submitted to CHAMPUS for processing as a second payer to Medicare. If CHAMPUS denies payment of the claim, the Medicare-eligible beneficiary or their provider have the same appeal rights as other CHAMPUS beneficiaries and their providers under this section.

(*3*) If Medicare processes a claim and the claim is denied by Medicare because it is not a healthcare service or supply that is a benefit under Medicare, the claim is submitted to CHAMPUS. CHAMPUS will process the claim under this Part 199 as primary payer (or as secondary payer if another double coverage plan exists). If any part of the claim is denied, the Medicare-eligible beneficiary and their provider will have the same appeal rights as other CHAMPUS beneficiaries and their providers under this section.

* * * * *

■ 6. Section 199.15 is amended by revising paragraph (a)(6) to read as follows:

§ 199.15 Quality and Utilization Review Peer Review Organization Program.

(a) * * *

(6) *Medicare rules used as model.* The CHAMPUS Quality and Utilization Review Peer Review Organization program, based on specific statutory authority, follows many of the quality and utilization review requirements and procedures in effect for the Medicare Peer Review Organization program, subject to adaptations appropriate for the CHAMPUS program. In recognition of the similarity of purpose and design between the Medicare and CHAMPUS PRO programs, and to avoid unnecessary duplication of effort, the CHAMPUS Quality and Utilization Review Peer Review Organization program will have special procedures applicable to supplies and services furnished to Medicare-eligible CHAMPUS beneficiaries. These procedures will enable CHAMPUS normally to rely upon Medicare determinations of medical necessity and appropriateness in the processing of CHAMPUS claims as a second payer to Medicare. As a general rule, only in cases involving Medicare-eligible CHAMPUS beneficiaries where Medicare payment for services and supplies is denied for reasons other than medical necessity and appropriateness will the CHAMPUS claim be subject to review for quality of care and appropriate utilization under the CHAMPUS PRO program. TRICARE will continue to perform a medical necessity and appropriateness review for quality of care and appropriate utilization under the CHAMPUS PRO program where required by statute, such as inpatient mental health services in excess of 30 days in any year.

* * * * *

■ 7. Section 199.17 is amended by revising paragraphs (a) introductory text, (a)(6) introductory text, (a)(6)(i), (a)(6)(ii), (b) introductory text, (b)(1), (c) introductory text, (c)(3), (c)(4), and (v) to read as follows:

§ 199.17 TRICARE program.

(a) *Establishment.* The TRICARE program is established for the purpose of implementing a comprehensive managed health care program for the delivery and financing of health care services in the Military Health System.

* * * * *

(6) *Major features of the TRICARE program.* The major features of the TRICARE program, described in this section, include the following:

(i) Comprehensive enrollment system. Under the TRICARE program, all health care beneficiaries become classified into one of four categories:

(A) Active duty members, all of whom are automatically enrolled in TRICARE Prime;

(B) TRICARE Prime enrollees;

(C) TRICARE Standard participants, who are all CHAMPUS eligible beneficiaries who are not enrolled in TRICARE Prime;

(D) Non-CHAMPUS beneficiaries, who are beneficiaries eligible for health care services in military treatment facilities, but not eligible for CHAMPUS;

(ii) Establishment of a triple option benefit. A second major feature of TRICARE is the establishment of three options for receiving health care:

(A) ''TRICARE Prime,'' which is a health maintenance organization (HMO)-like program. It generally features use of military treatment facilities and substantially reduced out-

of-pocket costs for CHAMPUS care. Beneficiaries generally agree to use military treatment facilities and designated civilian provider networks and to follow certain managed care rules and procedures.

(B) ''TRICARE Extra,'' which is a preferred provider organization (PPO) program. It allows TRICARE Standard beneficiaries to use the TRICARE provider network, including both military facilities and the civilian network, with reduced out-of-pocket costs. These beneficiaries also continue to be eligible for military medical treatment facility care on a space-available basis.

(C) ''TRICARE Standard'' which is the basic CHAMPUS program. All eligible beneficiaries are automatically included in Standard unless they have enrolled in Prime. It preserves broad freedom of choice of civilian providers, but does not offer reduced out-of-pocket costs. These beneficiaries continue to be eligible to receive care in military medical treatment facilities on a space-available basis.

* * * * *

(b) *Triple option benefit in general.* Where the TRICARE program is fully implemented, eligible beneficiaries are given the option of enrolling in TRICARE Prime (also referred to as ''Prime'') or remaining in TRICARE Standard (also referred to as ''Standard''). In the absence of an enrollment in Prime, coverage under Standard is automatic.

(1) *Choice voluntary.* With the exception of active duty members, the choice of whether to enroll in Prime is voluntary for all eligible beneficiaries. For dependents who are minors, the choice will be exercised by a parent or guardian.

* * * * *

(c) *Eligibility for enrollment.* Where the TRICARE program is fully implemented, all CHAMPUS-eligible beneficiaries who are not Medicare eligible on basis of age are eligible to enroll in Prime or to remain covered under Standard. CHAMPUS beneficiaries who are eligible for Medicare on basis of age (and are enrolled in Medicare Part B) are automatically covered under TRICARE Standard. Further, some rules and procedures are different for dependents of active duty members and retirees, dependents, and survivors. In addition, where the TRICARE program is implemented, a military medical treatment facility commander or other authorized individual may establish priorities, consistent with paragraph (c) of this section, based on availability or other operational requirements, for when and whether to offer enrollment in Prime.

* * * * *

(3) *Retired members, dependents of retired members, and survivors.* (i) Where TRICARE is fully implemented, all CHAMPUS-eligible retired members, dependents of retired members, and survivors who are not eligible for Medicare on the basis of age are eligible to enroll in Prime. After all active duty members are enrolled and availability of enrollment is assured for all active duty dependents wishing to enroll, this category of beneficiaries will have third priority for enrollment.

(ii) If all eligible retired members, dependents of retired members, and survivors within the area concerned cannot be accepted for enrollment in Prime at the same time, the MTF Commander (or other authorized individual) may allow enrollment within this beneficiary group category on a first come, first served basis.

(4) *Coverage under Standard.* All CHAMPUS-eligible beneficiaries who do not enroll in Prime will remain in Standard.

* * * * *

(v) *Administrative procedures.* The Assistant Secretary of Defense (Health Affairs), the Director, TRICARE Management Activity, and MTF Commanders (or other authorized officials) are authorized to establish administrative requirements and procedures, consistent with this section, this part, and other applicable DoD Directives or Instructions, for the implementation and operation of the TRICARE program.

Dated: April 17, 2003.

L.M. Bynum,

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

[FR Doc. 03–10092 Filed 4–29–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05–03–037]

RIN 1625–AA09

Drawbridge Operation Regulations; Elizabeth River Southern Branch, AICWW, Virginia

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Dominion (Steel) Bridge across the Elizabeth River (Southern Branch) Atlantic Intracoastal Waterway (AICWW) mile 8.8, at Chesapeake, Virginia to allow the bridge owner to conduct needed mechanical work. The work will be performed at night. The closure periods to navigation are from 8 p.m. to 7 a.m., on Fridays and Saturdays, and from 8 p.m. to 5 a.m., on Sundays to Mondays.

DATES: This deviation is effective from 8 p.m. on May 2, 2003, to 5 a.m. on June 9, 2003.

FOR FURTHER INFORMATION CONTACT: Bill Brazier, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6422.

SUPPLEMENTARY INFORMATION: The City of Chesapeake has requested a temporary deviation from the current operating regulation set out in 33 CFR 117.997(f) which requires the drawbridge to open on signal, except that, from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday except Federal holidays, the draw need not open for the passage of recreational vessels. The City of Chesapeake has requested the temporary deviation to allow necessary repairs to the drawbridge in a critical time sensitive manner.

The work involves the replacement of bent sections of the nose and tail locks on the moveable span of the bridge. To facilitate the replacement, the bascule span will be locked in the closed position to vessels at night for up to 11 hours on each Friday and Saturday from 8 p.m. to 7 a.m., and up to nine hours each Sunday to Monday, from 8 p.m. to 5 a.m., from May 2–5, May 9–12, May 16–19, May 30—June 2, and June 6–9, 2003. During this period, the work requires completely immobilizing the operation of the bascule span in the closed position to vessels. At all other times, the bridge will operate in accordance with the current operating regulations outlined in 33 CFR 117.997(f). Calling the project superintendent at (757) 672–4829 will provide for emergency opening requests.

The Coast Guard has informed the known users of the waterway of the closure periods for the bridge so that these vessels can arrange their transits to minimize any impact caused by the temporary deviation.

The District Commander has granted temporary deviation from the operating requirements listed in 33 CFR 117.35 for the purpose of repair completion of the

drawbridge. The temporary deviation allows the Dominion (Steel) Bridge across the Elizabeth River (Southern Branch) AICWW mile 8.8, at Chesapeake, Virginia, to remain closed to navigation from May 2–5, May 9–12, May 16–19, May 30—June 2, and June 6–9, 2003; from 8 p.m. to 7 a.m., on Fridays and Saturdays, and from 8 p.m. to 5 a.m., on Sundays to Mondays.

Dated: April 22, 2003.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Section, Fifth Coast Guard District.

[FR Doc. 03–10570 Filed 4–29–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AI88

Subsistence Management Regulations for Public Lands in Alaska

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

ACTION: Affirmation of direct final rule.

SUMMARY: We, the U.S. Forest Service and U.S. Fish and Wildlife Service, are adopting, without change, a direct final rule that made two minor changes to the regulations governing subsistence use of wildlife in Alaska. Because we received no adverse comments on the direct final rule, it is now effective.

DATES: The direct final rule became effective April 21, 2003.

FOR FURTHER INFORMATION CONTACT: For Forest Service questions, contact Ken Thompson, Regional Subsistence Program Manager, USDA–FS Alaska Region, at (907) 786–3592. For Fish and Wildlife Service questions, contact Thomas H. Boyd at (907) 786–3888.

SUPPLEMENTARY INFORMATION:

Background

The regulations at 36 CFR part 242 and 50 CFR part 100 (referred to below as ''the regulations''), authorized by Title VIII of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101–3126), implement the Federal Subsistence Management Program on public lands in Alaska. The Department of Agriculture's U.S. Forest Service and the Department of the Interior's U.S. Fish and Wildlife Service (referred to below as ''the Departments'') jointly administer the regulations, which are identical in 36 CFR part 242 and 50 CFR part 100.

On May 7, 2002, the Departments published in the **Federal Register** a final rule that made changes to the regulations (67 FR 30559). On February 18, 2003, the Departments published a direct final rule (68 FR 7703) that addressed two issues that arose after publication of the May 7, 2002, final rule: We clarified how old a person must be to receive a Federal Subsistence Registration Permit or Federal Designated Harvester Permit and removed a requirement that Regional Councils must have an odd number of members. These changes clarified language that had been unclear and brought the regulations into accord with current policies. We published these changes as a direct final rule because we believed these changes to be noncontroversial and anticipated receiving no adverse public comment on them.

We did not receive any comments on the direct final rule during the public comment period provided. Therefore, the direct final rule became effective April 21, 2003, as specified in that rule.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

PART _—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ Accordingly, we are affirming as a final rule, without change, the direct final rule amending 50 CFR 100 and 36 CFR 242 that was published at 68 FR 7703 on February 18, 2003.

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

Dated: April 15, 2003.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

Dated: April 15, 2003.

Kenneth E. Thompson,

Subsistence Program Manager, USDA—Forest Service.

[FR Doc. 03–10633 Filed 4–29–03; 8:45 am]

BILLING CODE 3410–11–P; 4310–55–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 275–0384a; FRL–7471–4]

Revisions to the California State Implementation Plan, Lake County Air Quality Control District and San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Lake County Air Quality Management District (LCAQMD) and San Diego County Air Pollution Control District (SDCAPCD) portions of the California State Implementation Plan (SIP). The LCAQMD and SDCAPCD revisions concern the emission of particulate matter (PM–10) from open burning. We are approving the local rules that regulate this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on June 30, 2003, without further notice, unless EPA receives adverse comments by May 30, 2003. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail or e-mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; *steckel.andrew@epa.gov*.

You can inspect a copy of the submitted rules and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see a copy of the submitted rules and TSDs at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, (Mail Code 6102T), Room B–102, 1301 Constitution Avenue, NW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Lake County Air Quality Management District, 885 Lakeport Boulevard, Lakeport, CA 95453.

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

A copy of a rule may also be available via the Internet at *http://www.arb.ca.gov/drdb/drdbltxt.htm*. This is not an EPA website and it may not contain the same version of the rule that was submitted to EPA. Readers should

verify that the adoption date of the rule listed is the same as the rule submitted to EPA for approval and be aware that the official submittal is only available at the agency addresses listed above.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the date that they were revised by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule # or [section #]	Rule title or section title or [subject matter]	Amended, adopted, or rescinded	Submitted
LCAQMD	[226.5]	Fire Season Burn Ban	10/01/02 Adopted	12/12/02
LCAQMD	[232.1]	Incinerator	10/01/02 Adopted	12/12/02
LCAQMD	[238.5]	Natural Vegetation	10/01/02 Adopted	12/12/02
LCAQMD	[249.3]	Processed or Treated Wood and Wood Products	10/01/02 Adopted	12/12/02
LCAQMD	[250.5]	Residential Waste Burning	10/01/02 Adpoted	12/12/02
LCAQMD	[431.5]	[Non-Agricultural Open Burning]	10/01/02 Amended	12/12/02
LCAQMD	[431.7]	[Non-Agricultural Burning Hours]	10/01/02 Amended	12/12/02
LCAQMD	[432.5]	Exemptions for Preparation of Food and Recreational Purposes	10/01/02 Amended	12/12/02
LCAQMD	[433]	[Single- and Two-Family Dwellings]	10/01/02 Amended	12/12/02
LCAQMD	[433.5]	[Exemption to Lot Size and Distance Restrictions]	10/01/02 Adopted	12/12/02
LCAQMD	[436]	Wood Waste Disposal by Open Burning	10/01/02 Adopted	12/12/02
LCAQMD	[436.5]	Wood Waste Burning	10/01/02 Adopted	12/12/02
LCAQMD	[442]	Wood Waste Disposal by Open Burning	10/01/02 Rescinded	12/12/02
SDCAPCD	101	Burning Control	09/25/02 Adopted	11/19/02
SDCAPCD	101 through 112	[SIP Open Burning Rules]	09/25/02 Rescinded	11/19/02

On February 7, 2003, this submittal was found to meet the completeness criteria in 40 CFR part 51 appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

We approved into the SIP a version of LCAQMD Section 436 on October 24, 1980 (45 FR 70448). We approved a version of LCAQMD Sections 431.7, 432.5, 436.5, and 442 on October 23, 1989 (54 FR 43173). We approved a version of LCAQMD Sections 226.5, 431.5, and 433 on June 14, 2002 (67 FR 40867).

We approved into the SIP versions of submitted SDCAPCD Rule 101 as SDCAPCD Rules 105, 106, 107, 110, 111, and 112 on May 11, 1977 (42 FR 23805), as SDCAPCD Rule 104 on August 31, 1978 (43 FR 38826), as SDCAPCD Rule 109 on July 6, 1982 (47 FR 29233), and as SDCAPCD Rules 101, 102, 103, and 108 on March 11, 1998 (63 FR 11831). These SIP versions are all submitted for recision and should be replaced by submitted SDCAPCD Rule 101.

C. What Is the Purpose of the Submitted Rule Revisions?

The purpose of the submitted LCAQMD sections is to amend and adopt sections that minimize public exposure from residential waste burning, improve air quality, and maximize fire safety while minimizing the health consequence and demand on resources of affected agencies.

One purpose of the submitted SDAPCD Rule 101 is to consolidate SIP Rules 101 through 112 into one rule. Other purposes are to increase stringency and to meet new California open burning guidelines.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). Section 189(a) of the CAA requires moderate PM–10 nonattainment areas with significant PM–10 sources to adopt reasonably available control measures (RACM), including reasonably available control technology (RACT). RACM/RACT is not required for attainment areas unless required by a maintenance attainment plan. LCAQMD and SDCAPCD regulate a PM–10 attainment area and fulfilling RACM/RACT is not required. See 40 CFR 81.305.

The following guidance documents were used for reference:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans,* U.S. EPA, 40 CFR part 51.
- *General Preamble Appendix C3—Prescribed Burning Control Measures* (57 FR 18072, April 28, 1992).
- *PM–10 Guideline Document,* EPA–452/R–93–008.

B. Do the Rules Meet the Evaluation Criteria?

We believe the submitted rules and recisions are consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and RACM/RACT requirements and should be approved. The TSDs have more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) and 110(k)(6) of the CAA, EPA is fully approving the submitted rules and rule recisions because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of the April 16, 2003 **Federal Register** (68 FR 18581), we proposed approval of the same submitted rules. If we receive adverse comments by May 30, 2003, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not

take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on June 30, 2003. This will incorporate these rules into the federally-enforceable SIP and remove the rescinded rules from the SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this direct final 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.

III. Background Information

A. Why Were These Rules Submitted?

PM–10 harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM–10 emissions. Table 2 lists some of the national milestones leading to the submittal of local agency PM–10 rules.

TABLE 2.—PM–10 NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the Clean Air Act, as amended in 1977. 43 FR 8964; 40 CFR 81.305.
July 1, 1987	EPA replaced the TSP standards with new PM standards applying only up to 10 microns in diameter (PM–10). 52 FR 24672.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted, Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671g.
November 15, 1990	PM–10 areas meeting the qualifications of section 107(d)(4)(B) of the CAA were designated nonattainment by operation of law and classified as moderate pursuant to section 188(a). States are required by section 110(a) to submit rules regulating PM–10 emissions in order to achieve the attainment dates specified in section 188(c).

IV. Statutory and Executive Order Reviews

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

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

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 30, 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 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 11, 2003.

Alexis Strauss,

Acting Regional Administrator, Region IX.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(21)(vi)(D), (c)(41)(ii)(F), (c)(103)(ii)(E), (c)(176)(i)(B)(*2*), (c)(182)(i)(E)(*2*), (c)(307)(i)(C), and (c)(308)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(21) * * *

(vi) * * *

(D) Previously approved on May 11, 1977 in paragraph (c)(21)(vi)(A) of this section and now deleted Rules 105, 106, 107, 110, 111, and 112 (now replaced by Rule 101).

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(41) * * *

(ii) * * *

(F) Previously approved on August 31, 1978 in paragraph (c)(41)(ii)(A) of this section and now deleted Rule 104 (now replaced by Rule 101).

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(103) * * *

(ii) * * *

(E) Previously approved on July 6, 1982 in paragraph (c)(103)(ii)(B) of this section and now deleted Rule 109 (now replaced by Rule 101).

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(176) * * *

(i) * * *

(B) * * *

(*2*) Previously approved on October 23, 1989 in paragraph (c)(176)(i)(B)(*1*) of this section and now deleted Section 442 (now replaced by Section 436).

* * * * *

(182) * * *

(i) * * *

(E) * * *

(*2*) Previously approved on March 11, 1988 in paragraph (c)(182)(i)(E)(*1*) of this section and now deleted Rules 101, 102, 103, and 108 (now replaced by Rule 101).

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(307) * * *

(i) * * *

(C) San Diego County Air Pollution Control District.

(*1*) Rule 101, adopted on September 25, 2002.

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(308) * * *

(i) * * *

(B) Lake County Air Quality Management District.

(*1*) Sections 226.5, 232.1, 238.5, 249.3, 250.5, 433.5, 436, and 436.5, adopted on October 1, 2002 and Sections 431.5, 431.7, 432.5, and 433, amended on October 1, 2002.

* * * * *

[FR Doc. 03–10426 Filed 4–29–03; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2003–0077; FRL–7297–9]

Mefenpyr-Diethyl; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for the combined residues of mefenpyr-diethyl also known chemically as 1-(2,4-dichlorophenyl)-4,5-dihydro-5-methyl-1H-pyrazole-3,5-dicarboxylic acid, diethyl ester in or on wheat and barley commodities. Bayer CropScience formerly doing business as Aventis CropScience and/or AgrEvo Company requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective April 30, 2003. Objections and requests for hearings, identified by docket ID number OPP–2003–0077, must be received on or before June 30, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Bipin Gandhi, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460–0001; telephone number: (703) 308–8380; e-mail address: gandhi.bipin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Industry (NAICS 111), e.g., crop production
- Industry (NAICS 112), e.g., animal production
- Industry (NAICS 311), e.g., food manufacturing
- Industry (NAICS 32532), e.g., pesticide manufacturing

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

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0077. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html,* a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gov/opptsfrs/home/guidelin.htm.*

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 submit or 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 in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background and Statutory Findings

In the **Federal Register** of September 26, 1997 (62 FR 50610) (FRL–5740–2), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170), announcing the filing of a pesticide petition (PP 7F4850) by AgrEvo. Since 1997, by a series of mergers, AgrEvo became Aventis Crop Science and then Bayer CropScience. That notice included a summary of the petition prepared by AgrEvo, now doing business as Bayer CropScience, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.509 be amended by establishing permanent tolerances for the combined residues of the herbicide safener, mefenpyr-diethyl, 1-(2,4-dichlorophenyl)-4,5-dihydro-5-methyl-1H-pyrazole-3,5-dicarboxylic acid, diethyl ester, in or on wheat and barley commodities.

In the **Federal Register** of August 8, 1997 (62 FR 42678) (FRL–5731–7), EPA, on its own initiative, pursuant to section 408(e) and (1)(6) of the FFDCA, established time-limited tolerances for the inert ingredient herbicide safener, mefenpyr-diethyl, and its 2,4-dichlorophenyl-pyrazoline metabolites in or on wheat grain and wheat straw. This action was in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of mefenpyr-diethyl on wheat grain and wheat straw in North Dakota and Montana.

Similarly, mefenpyr-diethyl time-limited tolerances were established by the Agency in the **Federal Register** of September 9, 1998 (63 FR 48116) (FRL–6024–7), in or on barley grain, barley hay, barley straw, and the processed by-products of barley grain: pearled barley, bran and flour. This action was in response to EPA's granting of an emergency exemption under FIFRA section 18 authorizing use of mefenpyr-diethyl on barley in North Dakota.

These time-limited tolerances have been extended as the petitioner has continued data generation. (See the **Federal Register** of May 6, 1998 (63 FR 24939) (FRL–5788–1); the **Federal Register** of November 22, 1999 (64 FR 63711) (FRL–6385–5); and the **Federal Register** of December 14, 2001 (66 FR 64768) (FRL–6814–2)). The extensions of these time-limited tolerances were consistent with the safety standard (FFDCA section 408(b)(2)) and FIFRA section 18. Currently, the time-limited tolerances under 40 CFR 180.509(b) expire on December 31, 2003. As the permanent tolerances are established, these emergency exemption time-limited tolerances are no longer necessary and will be revoked.

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

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for tolerances for combined residues of mefenpyr-diethyl on wheat and barley commodities. EPA's assessment of exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by mefenpyr-diethyl are discussed in Table 1 of this unit as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	Subchronic feeding studies in mouse	NOAEL = 89.3/105.4 mg/kg/day (milligram/kilogram/day), male and female (M/F) LOAEL = 449.0/523.5 mg/kg/day (M/F) based on decreased body and kidney weight, increased liver weight and hepatocyte hypertrophy in males; decreased bilirubin and increased lactic acid dehydrogenase values in females

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.3100	Subchronic feeding studies in rats	NOAEL = 206.7/223.0 mg/kg/day (M/F) LOAEL = 660.6/708.9 mg/kg/day(M/F) based on decreased body weight (bwt) gains; decreased erythrocyte counts, hemoglobin and hematocrit values; and increased reticulocyte counts and mean corpuscular volume
870.3150	Subchronic feeding-dogs	NOAEL = 80.5/81.2 mg/kg/day (M/F) LOAEL = 341.0/336.1 mg/kg/day (M/F) based on increased absolute and relative liver weights and alkaline phosphatase activities in both sexes; focal liver lesions in females; slight anemia in both sexes; decrease in mean bwt and bwt gain in females and decreased food consumption in both sexes
870.3200	28–Day dermal toxicity (rat)	NOAEL = 1,000 mg/kg/day highest dose tested (HDT) LOAEL was not determined, but would be greater than the NOAEL
870.3700	Developmental toxicity in rodents (rat)	Maternal NOAEL < 1,000 mg/kg/day Maternal LOAEL = 1,000 mg/kg/day based on decrease in body weight gain and food efficiency during the first week of treatment and on increase in absolute and relative spleen weights Developmental NOAEL = 1,000 mg/kg/day Developmental LOAEL = Not determined but would be greater than the NOAEL. Note that only one dose was tested
870.3700	Postnatal developmental toxicity in rodents (rat)	Maternal NOAEL < 1,000 mg/kg/day Maternal NOAEL = 1,000 mg/kg/day based on decrease in bwt gain and food efficiency during the first week of treatment Developmental NOAEL < 1,000 mg/kg/day Developmental LOAEL = 1,000 mg/kg/day based on marginal decreases in fetal bwt and bwt gain during lactation. Note that only one dose was tested
870.3700	Developmental Toxicity in nonrodents (rabbit)	Maternal NOAEL= 100 mg/kg/day Maternal LOAEL = 250 mg/kg/day based on higher rate of abortions and marginal decreases in body-weight gain, food efficiency index and food consumption Developmental NOAEL = 100 mg/kg/day LOAEL = 250 mg/kg/day based on higher rate of abortions
870.3800	Reproduction and fertility effects	Parental-Offspring/Systemic NOAEL = 57.3/76.0 mg/kg/day (M/F) Parental-Offspring/Systemic LOAEL= 306.0/392.0 mg/kg/day (M/F) based on decrease mean bwt and mean bwt gain in parents and offspring and an increase in mean spleen weight an increase in the severity (but not in the incidence) of splenic extramedullary hematopoiesis in females. Reproductive NOAEL = 306.0/392.0 mg/kg/day (M/F): HDT Reproductive LOAEL was not determined but would be greater than the NOAEL
870.4100	Chronic-feeding toxicity-dogs	NOAEL = 51.4/57.6 mg/kg/day (M/F) LOAEL = 260.2/282.2 mg/kg/day (M/F) based on high ALP levels and increased absolute and relative liver weights in both sexes and grade 1 (minimal) intrahepatic cholestasis in the liver: 2/sex
870.4300	Chronic Toxicity-Carcinogenicity rats	NOAEL = 48.5/60.0 mg/kg/day (M/F) LOAEL = 251.6/318.0 mg/kg/day (M/F) based on significant increases in reticulocyte counts
870.4300	Carcinogenicity mice	NOAEL = 350.8/463.4 mg/kg/day (M/F) LOAEL = (M/F) not determined, however, study considered adequate for carcinogenicity based on results of subchronic study
870.5265	Gene Mutation *Salmonella* and *E. Coli*	Non-mutagenic with or without activation
870.5300	Gene Mutation HGPRT with V79 cells	Non-mutagenic with or without activation
870.5375	Chinese Hamster Lung Fibroblast Assay	No clastogenic response with or without activation

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.5395	Micronucleus Assay	No clastogenic response at any dose or sacrifice time
870.5550	Unschedule DNA synthesis	No clear evidence of genotoxicity. However, study not acceptable
870.7485	Metabolism and pharmacokinetics	Single dose of 1 or 100 mg/kg bwt: Urinary excretion - 76–88% of administered radioactivity with 59–72% excreted within first 24 hours. Fecal excretion ranged from 13–32%. 83–91% of administered dose excreted (urine and feces) by 24 hours and 91 to > 99% excreted by 48 hours. At least 68–88% of administered dose absorbed. Recovery in tissues/animal: 0.24% of administered radioactivity (range: 0.07 – 0.51%). General order of concentration plasma > whole blood > lungs > subcutaneous fat > heart > kidneys > retroperitoneal fat > liver > gonads > pancreas > skeletal muscle. No volatile radioactivity detected 0–24 hours after dosing. Between 100–106% of administered radioactivity recovered. Single dose of 1 or 100 mg/kg bwt: Radioactivity rapidly excreted: total of 78–92% excreted by 48 hours. Renal excretion predominant route of elimination (65–72% by 48 hours), indicating that at least 65–72% of the administered dose was absorbed. None of test material found in its original form in urine. Three metabolites identified in urine: 13–26% of the radioactivity was recovered in the feces by 48 hours. The same three metabolites identified in urine were also present in the feces: Proposed metabolic steps: Consecutive hydrolysis (saponification) of the two carboxylic acid ester groups and a decarboxylation of one of the carboxylic groups, resulting in an aromatization of the pyrazoline ring. Enterohepatic circulation is unlikely to play a major role. In males, there appears to be either lower intestinal absorption or a higher biliary excretion when compared to females.

B. Toxicological Endpoints

The dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor (SF) is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA SF.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

A summary of the toxicological endpoints for mefenpyr-diethyl used for human risk assessment is discussed in this unit: The Agency has determined that there is no acute toxicological concern. No appropriate endpoint was identified from oral toxicity studies including the developmental toxicity studies in rats and rabbits. No short-term or intermediate-term dermal or systemic toxicity was observed up to 1,000 mg/kg/day and no development effects were observed in the developmental rat study at 1,000 mg/kg/day. Therefore, no endpoint was identified for risk assessment for the short- and intermediate-term risk assessments. Based on the current use-pattern (i.e. one application per season) long-term exposure via the dermal route is not expected. Therefore, a long-term dermal end-point was not identified. Similarly, no endpoint was identified for carcinogenicity since this chemical is not classified as a human carcinogen.

For chronic dietary risk assessment the NOAEL of 57.3 mg/kg/day in a 2–generation reproduction toxicity study was identified as an appropriate end point. Taking into account the UF of 100, the chronic RfD is 0.57 mg/kg/day (NOAEL 57.3/ UF 100 = 0.57). The Agency has used a FQPA Factor of 1 and therefore, the chronic population adjusted dose (PAD) is 0.57 mg/kg/day (RfD 0.57/FQPA 1 = 0.57) for mefenpyr-diethyl.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been previously established (40 CFR 180.509(b)) under FIFRA section 18, the Emergency Exemption Program, for the combined residues of mefenpyr-diethyl. To establish permanent tolerances, risk assessments were conducted by EPA to assess dietary exposures from mefenpyr-diethyl in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

An acute dietary risk assessment was not performed because no appropriate acute toxicological endpoint could be identified in any of the oral toxicity studies including the developmental studies in rats and rabbits.

ii. *Chronic exposure.* The chronic dietary exposure assessment was conducted using the Dietary Exposure Evaluation Model software with the

Food Commodity Intake Database (DEEM-FCID®, Version 1.3), which incorporates consumption data from USDA's Continuing Survey of Food Intakes by Individuals (CSFII), 1994–1996 and 1998. The 1994–96 and 1998 data are based on the reported consumption of more than 20,000 individuals over two non-consecutive survey days. Foods ''as consumed'' (e.g., apple pie) are linked to EPA-defined food commodities (e.g. apples, peeled fruit - cooked; fresh or not specified (N/S); baked; or wheat flour - cooked; fresh or N/S, baked) using publicly available recipe translation files developed jointly by USDA/ARS and EPA. Consumption data are averaged for the entire U.S. population and within population subgroups for chronic exposure assessment, but are retained as individual consumption events for acute exposure assessment.

For chronic exposure and risk assessment, an estimate of the residue level in each food or food-form (e.g., orange or orange juice) on the food commodity residue list is multiplied by the average daily consumption estimate for that food/food form. The resulting residue consumption estimate for each food/food form is summed with the residue consumption estimates for all other food/food forms on the commodity residue list to arrive at the total average estimated exposure. Exposure is expressed in mg/kg bwt/day and as a percent of the cPAD. This procedure is performed for each population subgroup.

The DEEM-FCID® analyses estimate the dietary exposure of the U.S. population and various population subgroups. The analysis assumed tolerance-level residues. No processing studies were required due to the fact that field trials conducted at exaggerated rate (greater than 5X) showed no detectable residues in wheat and barley grains. Therefore, no tolerance is needed for processed commodities. A default processing factor of 1.92 was used for dried beef in this dietary exposure analysis. No other commodities in this analysis used DEEM default processing factors. No percent crop treated or anticipated residues were used.

iii. *Cancer*. The Agency has determined that mefenpyr-diethyl is ''not likely to be a human carcinogen.'' This was based on weight-of-the-evidence from negative rat and mouse carcinogenicity studies as well as negative mutagenicity studies. Therefore, a carcinogenic dietary assessment was not performed.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for mefenpyr-diethyl in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of mefenpyr-diethyl.

The Agency used the FQPA Index Reservoir Screening Tool (FIRST) to produce estimates of pesticide concentrations in an index reservoir. The screening concentration in ground water (SCI-GROW2) model is used to predict pesticide concentrations in shallow ground water. FIRST is a tier 1 model that uses a specific high-end runoff scenario for pesticides. It incorporates an index reservoir environment, but does include a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

Neither FIRST nor SCI-GROW2 include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since FIRST and SCI-GROW2 is considered to be a screening tool in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to mefenpyr-diethyl, they are further discussed in the aggregate risk sections see Unit III.E.

The EECs for a single application of mefenpyr-diethyl at an exaggerated rate of 0.090 kg/hectare (ha) (0.080 lb/acre) results in the peak and chronic concentrations of combined parent and metabolites of 5 parts per billion (ppb) and 3 ppb, respectively for surface water and 4 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Mefenpyr-diethyl is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether mefenpyr-diethyl has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, mefenpyr-diethyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that mefenpyr-diethyl has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of the FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity*. In the prenatal developmental toxicity study in rats, no evidence of developmental toxicity was seen, even in the presence of maternal toxicity. In the developmental toxicity study in

rabbits, developmental toxicity was seen in the presence of maternal toxicity. A higher rate of abortions occurred at the highest dose level tested (250 mg/kg/day). An examination of the individual litter data provided no evidence as to whether or not the higher rate was due to maternal toxicity or developmental toxicity. Therefore, both the maternal and developmental NOAELs and LOAELs were based on this effect. In the 2–generation reproduction study and in the postnatal developmental toxicity study in rats, effects in the offspring were observed only at or above treatment levels which caused parental toxicity. Developmental (Offspring) effects in these two studies consisted of decreases in bwt and bwt gain of the pups in the presence of either decreased bwt and bwt gain or hematopoietic effects in the parents. There does not appear to be any increased susceptibility in rats or rabbits to *in utero* and/or postnatal exposure to mefenpyr-diethyl. Developmental effects were only observed at levels which were parentally toxic.

3. *Conclusion*. There is a complete toxicity data base for mefenpyr-diethyl and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be removed. The FQPA factor is removed (i.e., reduced to 1) because there is no indication of increased susceptibility to infants and children, dietary exposure estimates are likely to result in an overestimate of the actual exposure, estimates for ground and surface source drinking water exposure are upper-bound concentrations and there are currently no registered residential uses and thus, this type of exposure to infants and children is not expected.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water (e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure)). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and bwts. Default bwts and consumption values as used by EPA are used to calculate DWLOCs: 2 liter (L)/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default bwts and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which the Agency has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because the Agency considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, the Agency will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. No acute endpoint was identified, therefore, no acute risk is expected.

2. *Chronic risk*. EPA has concluded that exposure to mefenpyr-diethyl from food will utilize less than 1% of the cPAD for the U.S. population and all population subgroups. (Table 2). There are no residential uses for mefenpyr-diethyl that result in chronic residential exposure to mefenpyr-diethyl. The following table represents the results of the Tier 1 chronic dietary (food only) exposure analysis for mefenpyr-diethyl proposed uses on barley and wheat.

TABLE 2.—EXPOSURE AND RISK ESTIMATES FOR DIETARY (FOOD ONLY) EXPOSURE TO MEFENPYR-DIETHYL.

Population Subgroup	Estimated Dietary Exposure, mg/kg bwt/day	% cPAD
U.S. population	0.000113	<1%
All infants (< 1 year)	0.000068	<1%
Children (1–2 years)	0.000295	<1%
Children (3–5 years)	0.000273	<1%
Children (6–12 years)	0.000186	<1%
Youth (13–19 years)	0.000107	<1%
Adults (20–49 years)	0.000091	<1%
Females (13–49 years)	0.000082	<1%
Adults (50+ years)	0.000074	<1%

This exposure analysis and cPAD represents a conservative estimate of dietary (food only) exposure and risk from the use of mefenpyr-diethyl on barley and wheat. Further refinement, through the use of anticipated residues, percent-of-crop treated estimates and/or monitoring data, would result in a reduction in the exposure estimates and the associated risk. However, in this analysis, even without further refinement, the risk estimate for all population subgroups is less than 1% of the cPAD. This is below the Agency's level of concern (100% of the cPAD) for the general U.S. population and all population subgroups.

However, there is potential for chronic dietary exposure to mefenpyr-diethyl in drinking water. The EECs for surface water and ground water are less than the DWLOC. Thus, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in Table 3 below.

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO MEFENPYR-DIETHYL

Population Subgroup	cPAD (mg/kg/day)	% cPAD (food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.57	0.000113	3	4	20,000
All infants (< 1 year old)	0.57	0.00007	3	4	5,700
Children (1–2 years old)	0.57	0.000295	3	4	5,700
Females (13–49 years old)	0.57	0.00008	3	4	17,000

3. *Short-term risk and intermediate-term risk.* Mefenpyr-diethyl is not registered for use on any sites that would result in residential exposure.

4. *Aggregate cancer risk for U.S. population.* Mefenpyr-diethyl is not classified as a human carcinogen and thus is not expected to pose a cancer risk.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to mefenpyr-diethyl residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

The petitioner has submitted an analytical method for mefenpyr-diethyl and its metabolites in wheat and barley using Gas Chromatography with a Mass Selective Detection (GC/MSD). This enforcement method has been reviewed by the Agency and fulfills the guidelines.

The petitioner also submitted an analytical method for mefenpyr-diethyl and its metabolites in Beef Liver also using GC/MSD. The petitioner also submitted an Independent Laboratory Validation of the method.

Adequate enforcement methodology GC/MSD is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: residuemethods@epa.gov.

B. International Residue Limits

There are no CODEX, Canadian or Mexican limits for residues of mefenpyr-diethyl in wheat and barley. However, Italy has established an MRL (maximum residue limit) of 0.05 ppm in wheat grain for residues of mefenpyr-diethyl and its metabolites which is consistent with the wheat grain tolerance established today.

C. Conditions

Based on the residue uptake results of the confined rotational studies at 90 gram/hectare (0.80 lb/acre) residue uptakes, the Agency would usually establish a 30–day plantback interval for leafy, fruiting, and root vegetables, and 12–month plantback interval for all other crops other than wheat and barley, which can be replanted at any time. However, at this time, the petitioner has indicated that the application rate will not exceed 30 gram/hectare or 0.0267 lb/acre. Given this reduction to one–third of the application rate used in the study, the Agency believes that a 30–day plantback interval is appropriate for all crops except cereal grains and grasses. The plant back interval for cereal grains and grasses, except wheat and barley, (which can be replanted at any time) is 12–months.

V. Conclusion

Therefore, tolerances are established for the combined residues of mefenpyr-diethyl, 1-(2,4-dichlorophenyl)-4,5-dihydro-5-methyl-1H-pyrazole-3,5-dicarboxylic acid, diethyl ester, in or on wheat and barley commodities.

VI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2003–0077 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before June 30, 2003.

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

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you

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

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov,* or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP–2003–0077, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the

agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: April 17, 2003.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346(a) and 371.

■ 2. Section 180.509 is revised to read as follows:

§ 180.509 Mefenpyr-diethyl; tolerance for residues.

(a) *General*. Tolerances are established for residues of the herbicide safener mefenpyr-diethyl (1-(2,4-dichlorophenyl)-4,5-dihydro-5-methyl-1H-pyrazole-3,5-dicarboxylic acid, diethyl ester) and its 2,4-dichlorophenyl-pyrazoline metabolites at a rate of 0.0267 pound safener per acre per growing season in or on following commodities:

Commodity	Parts per million
Barley, grain	0.05
Barley, hay	0.2
Barley, straw	0.5
Cattle, meat byproducts	0.1
Goat, meat byproducts	0.1
Hog, meat byproducts	0.1
Horse, meat byproducts	0.1
Sheep, meat byproducts	0.1
Wheat, forage	0.2
Wheat, grain	0.05
Wheat, hay	0.2
Wheat, straw	0.5

(b) *Section 18 emergency exemptions*. [Reserved]

(c) *Tolerances with regional registrations*. [Reserved]

(d) *Indirect or inadvertent residues*. [Reserved]

[FR Doc. 03–10263 Filed 4–29–03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2003–0110; FRL–7300–9]

Pyraflufen-ethyl; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of pyraflufen-ethyl in or on field corn, potato, and soybean. Nichino America Incorporated requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA) , as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective April 30, 2003. Objections and requests for hearings, identified by docket ID number OPP–2003–0110, must be received on or before June 30, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6224; e-mail address: *miller.joanne@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS Code 111)
- Animal production (NAICS Code 112)
- Food manufacturing (NAICS Code 311)
- Pesticide manufacturing (NAICS Code 32532)

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

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0110. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/4 0cfr180_00.html,* a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gov/opptsfrs/home/guidelin.htm.*

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 submit or 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 in Unit I.B.1. Once in

the system, select ''search,'' then key in the appropriate docket ID number.

II. Background and Statutory Findings

In the **Federal Register** of November 20, 2002 (67 FR 70073) (FRL–7184–7), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170), announcing the filing of a pesticide petition (1F6428) by Nichino America Incorporated, 4550 New Linden Hill Road, Suite 501, Wilmington, DE 19808. That notice included a summary of the petition prepared by Nichino America Incorporated, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.585 be amended by establishing tolerances for combined residues of the herbicide pyraflufen-ethyl (ethyl 2-chloro-5-(4-chloro-5-difluoromethoxy-1-methyl-1H-pyrazol-3-yl)-4-fluorophenoxyacetate) and its acid metabolite, E-1 (2-chloro-5-(4-chloro-5-difluoromethoxy-1-methyl-1H-pyrazol-3-yl)-4-fluorophenoxyacetic acid), expressed as the ester equivalent in or on field corn forage, field corn grain, and field corn stover at 0.01 parts per million (ppm); potato at 0.02 ppm; and soybean forage, soybean hay, and soybean seed at 0.01.

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

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for tolerances for residues of pyraflufen-ethyl on field corn forage, field corn grain, and field corn stover at 0.01 ppm; potato at 0.02 ppm; and soybean forage, soybean hay, and soybean seed at 0.01. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by pyraflufen-ethyl are discussed in Table 1 of this unit as well as the No Observed Adverse Effect Level (NOAEL) and the Lowest Observed Adverse Effect Level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90–Day oral toxicity in rats	NOAEL = 5,000 ppm (456–499 milligram/kiligram/day (mg/kg/day)). LOAEL = 15,000 ppm (1,489–1,503 mg/kg/day) based on clinical signs, death, effects on erythrocytes, changes in clinical chemicals for liver function and splenomegaly.
870.3150	90–Day oral toxicity in dogs	NOAEL = 1,000 mg/kg/day. LOAEL not established; no effects observed.
870.3200	28–Day dermal toxicity in rats	NOAEL = 1,000 mg/kg/day. LOAEL not established; no effects observed.
870.3700	Prenatal developmental in rats	Maternal NOAEL ≥1,000 mg/kg/day. Maternal LOAEL not determined; no effects observed. Developmental NOAEL ≥1,000 mg/kg/day. Developmental LOAEL not determined; no effects observed.
870.3700	Prenatal developmental in rabbits	Maternal NOAEL = 20 mg/kg/day. Maternal LOAEL= 60 mg/kg/day based on mortality. Developmental = 60 mg/kg/day. Developmental LOAEL = 150 mg/kg/day based on increased incidence of abortion.
870.3800	Reproduction and fertility effects	Parental NOAEL = 1,000 ppm (70.8–82.3 mg/kg/day (M); 80.1-91.2 mg/kg/day (F). Parental LOAEL = 10,000 ppm (721–844 and 813–901 mg/kg/day) based on decreased body weight (bwt) and bwt gains of F_0 and F_1(M) and F_1(F), gross and microscopic liver lesions of (M) and (F) both generations. Reproductive NOAEL ≥ 10,000 ppm (721–844 and 813–901 mg/kg/day). Reproductive LOAEL not determined; no effects observed. Offspring NOAEL = 1,000 ppm (70.8–82.3 mg/kg/day (M); 80.1–91.2 (F). Offspring LOAEL = 10,000 ppm (721–844 and 813–901 mg/kg/day) based on decreased bwt and bwt gains of the F_1 and F_2 pups.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.4100	Chronic toxicity in dogs	NOAEL >1,000 mg/kg/day. LOAEL not determined; no effects observed.
870.4200	Carcino-genicity in mice	NOAEL = 200 ppm (20.99 mg/kg/day (M); 19.58 mg/kg/day (F). LOAEL = 1,000 ppm (109.7 mg/kg/day (M); 98.3 mg/kg/day (F) based on liver toxicity, hepatocellular tumors at 5,000 ppm; possibly hemangioma/ hemangioasarcomas.
870.4300	Chronic toxicity in rodents/carcino-genicity in rats	NOAEL = 2,000 ppm; 86.7 mg/kg/day (M); 111.5 mg/kg/day (F). LOAEL = 10,000 ppm; 468.1 mg/kg/day (M); 578.5 mg/kg/day (F) based on decreased bwt and bwt gain in males and microcytic anemia, liver lesions and kidney toxicity (both sexes); possible increase pheochromocytomas in females.
870.5100	Gene mutation	Non-mutagenic when tested up to 5,000 µg/plate, in presence and absence of metabolic activation (S9-mix), in *S. typhimurium* strains TA98, TA100, TA1535, TA1537, TA1538, and *E.coli* strain WP2(uvrA). There was no evidence of induced mutant colonies over background.
870.5300	Gene mutation	1. In mammalian cell gene mutation assays at the TK locus, L5178Y mouse lymphoma cells cultured *in vitro* were exposed to pyraflufen-ethyl in dimethylsulfoxide (DMSO) in the absence of mammalian metabolic activation (S9-mix) and with S9-mix. Concentrations ≥160 µg/mL were insoluble; cytotoxicity was seen at 80 µg/mL -S9 and 160 µg/mL +S9. There was no increase in the number of mutant colonies over background in the absence of S9-mix but a non-reproducible dose-related increase in the number of mutant colonies was seen in the presence of S9-mix. 2. In mammalian cell gene mutation assays at the TK locus, L5178Y mouse lymphoma cells cultured *in vitro* were exposed to pyraflufen-ethyl in dimethylsulfoxide (DMSO) in the absence of mammalian metabolic activation (S9-mix) and with S9-mix. There was no evidence of induced mutant colonies over background up to cytotoxic concentrations 50 µg/mL -S9; and 350 µg/mL +S9.
870.5375	Chromosomal aberration	In a mammalian cell cytogenetics assay, human primary lymphocyte cultures were exposed to pyraflufen ethyl in DMSO without metabolic activation (S9-mix) or with S9-mix. Compound precipitation occurred at 2,600 µg/mL +/-S9. There was no evidence of chromosomal aberration induction over background.
870.5395	Cytogenetics	In a CD-1 mouse bone marrow micronucleus assay, five mice/sex/dose/harvest time were treated via oral gavage with pyraflufen-ethyl in corn oil. ET–751 was tested to the limit dose of 5,000 mg/kg/bwt. Signs of compound toxicity were limited to piloerection, hunched posture in one female, and piloerection and hunched posture in one male receiving 5,000 mg/kg. No bone marrow cytotoxicity was seen at any dose. There was no statistically significant increase in the frequency of micronucleated polychromatic erythrocytes in bone marrow after any dose or treatment time.
870.5500	*Bacillus subtilis*	In a differential killing/growth inhibition assay in bacteria, strains H17 (rec+) and M45 (rec-) of *Bacillus subtilis* were exposed to pyraflufen ethyl in DMSO in the presence and absence of metabolic activation (S9-mix). There was no evidence of greater growth inhibition or cell killing in repair-defective strains compared to repair competent strains up to the limit of test material solubility.
870.5550	Unscheduled DNA Synthesis (UDS)	In an *in vivo*/*in vitro* UDS assay in rat hepatocytes, pyraflufen ethyl was administered to five SPF outbred albino Hsd/Ola Sprague-Dawley male rats per test group by oral gavage (four of the five rats were used for hepatocyte culture). No signs of overt toxicity to the test animals or cytotoxic effects to the target cells were seen up to the limit dose (2,000 mg/kg). The mean net nuclear grain count was below zero for both doses at both treatment times indicating no induction of UDS as tested in this study.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.7485	Metabolism and pharmaco-kinetics	Pyraflufen-ethyl was readily absorbed and excreted within 96 hours following a single or repeated oral dose of 5 mg/kg (plasma $t_{1/2}$ of 3–3.5 hours). However, at a dose of 500 mg/kg, absorption was saturated as indicated by C_{max} values which did not reflect the 100-fold dose differential (2.7–2.8 Fg eq/g for the low-dose group and 100–107 Fg eq-hr/g for the high-dose group). Following single or multiple oral low doses (5 mg/kg) of pyraflufen ethyl, urinary excretion accounted for 27–33% of the administered radioactivity suggesting that a multiple exposure regimen did not affect the absorption/excretion processes. Urinary excretion was reduced to only 5–7% following a single 500 mg/kg dose. Excretion via the feces accounted for the remainder of the administered radioactivity in all treatment groups. Analysis of biliary excretion following a single 5 mg/kg dose showed that 36% of the administered dose appeared in the bile. Based upon the excretion data, total bioavailability of a low dose was approximately 56%. Biliary excretion data were not available for a high-dose group which prevented a definitive assessment of bioavailability. Excretory patterns did not exhibit gender-related variability. However, plasma and blood clearance was more rapid in females than in males as shown by plasma/blood radioactivity time-course and the greater AUC values for males (32.3 vs 18.4 Fg eq-hr/g for the low-dose group and 2,738 vs 1,401 Fg eq-hr/g for the high-dose group). Radioactivity concentrations indicated tissue concentrations at or near detection limits (generally <0.01 Fg eq/g and never exceeding 0.02 Fg eq/g) at 96 hours postdose for any tissues. Therefore, neither pyraflufen-ethyl nor its metabolites appear to undergo significant sequestration. Tissue burden data following compound administration did not suggest a specific target beyond those tissues, namely liver and kidney, which are associated with absorption and elimination of orally administered xenobiotics.

B. Toxicological Endpoints

The dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An Uncertainty Factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (aRfD or cRfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA SF.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for pyraflufen-ethyl used for human risk assessment is shown in Table 2.

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR PYRAFLUFEN-ETHYL FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose (mg/kg/day) UF/MOE	Hazard Based Special FQPA Safety Factor	Endpoint for Risk Assessment
Dietary Risk Assessments			
Acute dietary	Not applicable	Not applicable	No adverse effect attributable to a single exposure (dose) was observed in oral toxicity studies, including the developmental toxicity studies in rats and rabbits.

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR PYRAFLUFEN-ETHYL FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose (mg/kg/day) UF/MOE	Hazard Based Special FQPA Safety Factor	Endpoint for Risk Assessment
Chronic dietary	NOAEL= 20 UF = 100 Chronic RfD = 0.20 mg/kg/day	1X	Mouse carcinogenicity LOAEL = 98 mg/kg/day based on liver toxicity
Incidental oral short-term (1–30 Days) Residential only	NOAEL = 20 UF = 100 MOE = 100	1X	Developmental toxicity-rabbit LOAEL = 60 mg/kg/day based on decreases in bwt and food consumption, GI observations, and abortions
Incidental oral intermediate-term (1–6 months) Residential only	NOAEL = 20 UF = 100 MOE = 100	1X	Mouse Carcinogenicity LOAEL = 98 mg/kg/day based on liver toxicity at interim sacrifice
Non-Dietary Risk Assessments			
Dermal short-term and intermediate-term	Not applicable	Not applicable	In a 28-dermal toxicity study in rats, no dermal or systemic toxicity was seen at the limit dose (1,000 mg/kg/day). The physical and chemical characteristics (e.g., Kow is low) indicate that dermal absorption is not expected to occur to any appreciable extent. There is no concern for prenatal and/or postnatal toxicity. Therefore, no hazard was identified and quantification of dermal risk is not required.
Residential	MOE = not applicable	Not applicable	
Occupational	MOE = not applicable	Not applicable	
Inhalation[1] short-term (1–30 days)	Oral NOAEL = 20	1X	Developmental toxicity-rabbit LOAEL = 60 mg/kg/day based on decreases in bwt and food consumption, GI observations, and abortions
Residential	MOE = 100		
Occupational	MOE= 100		
Inhalation[1] intermediate-term (1–6 months)	Oral NOAEL = 20	1X	Mouse carcinogenicity LOAEL = 98 mg/kg/day based on liver toxicity at interim sacrifice
Residential	MOE = 100		
Occupational	MOE = 100		
Inhalation[1] long-term (>6–months)	Oral NOAEL = 20	1X	Mouse Carcinogenicity LOAEL = 98 mg/kg/day based on liver toxicty
Residential	MOE = 100		
Occupational	MOE = 100		
Cancer	Classification: ''Likely to be Carcinogenic to Humans'' by the oral route. Q_1* = 3.32 x 10^{-2} (mg/kg/day)$^{-1}$		

[1] Oral endpoints were selected because inhalation studies were unavailable. Absorption via the inhalation route is presumed to be equivalent to oral absorption.

* The reference to the FQPA SF refers to any additional SF retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established, 40 CFR part 180.585, for the combined residues of pyraflufen-ethyl (ethyl 2-chloro-5-(4-chloro-5-difluoromethoxy-1-methyl-1H-pyrazol-3-yl)-4-fluorophenoxyacetate) and its acid metabolite, E-1 (2-chloro-5-(4-chloro-5-difluoromethoxy-1-methyl-1H-pyrazol-3-yl)-4-fluorophenoxyacetic acid), expressed as the ester equivalent in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary

exposures from pyraflufen-ethyl in food as follows:

i. *Acute exposure*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. No adverse effect attributable to a single exposure dose of pyraflufen-ethyl was observed in the oral toxicity studies, including the developmental toxicity studies in rats and rabbits. Therefore, EPA did not identify an acute dietary endpoint and an acute dietary assessment was not performed because no acute risk is expected.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the U.S. Department of Agriculture (USDA) nationwide Continuing Surveys of Food Intake by Individuals (CSFII) 1994–1996 and 1998, and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: 100% crop treated (PCT) and tolerance-level residues for pyraflufen-ethyl on all treated crops. This assessment was Tier I analysis. The exposure from pyraflufen-ethyl residues in food occupies less than 1% of the chronic percent adjusted dose (cPAD) for all population subgroups and is not a concern.

iii. *Cancer*. The cancer dietary exposure assessment was conducted using the DEEM analysis evaluated the individual food consumption as reported by respondents in the USDA nationwide CSFII 1994–1996 and 1998, and accumulated exposure to the chemical for each commodity. The following assumptions were made for the cancer assessments: 100% crop treated and tolerance-level residues for pyraflufen-ethyl on all treated crops. This assessment was Tier I analysis. The exposure from pyraflufen-ethyl residues in food results in a cancer risk of 10^{-6} and is not a concern.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for pyraflufen-ethyl in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the chemical and physical characteristics of pyraflufen-ethyl.

The Agency uses the First Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS), to produce estimates of pesticide concentrations in an index reservoir. The screening concentration in ground water (SCI-GROW) model is used to predict pesticide concentrations in shallow ground water. For a screening-level assessment for surface water EPA will use FIRST (a tier 1 model) before using PRZM/EXAMS (a tier 2 model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. While both FIRST and PRZM/EXAMS incorporate an index reservoir environment, the PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a percent reference dose (%RfD) or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to pyraflufen-ethyl they are further discussed in the aggregate risk sections below.

Based on the FIRST and SCI-GROW models the EECs of pyraflufen-ethyl for acute exposures are estimated to be 1.25 parts per billion (ppb) for surface water and 0.002 ppb for ground water. The EECs for chronic exposures are estimated to be 0.28 ppb for surface water and 0.002 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Pyraflufen-ethyl is currently registered for use on the following residential non-dietary sites: Airports, nurseries, ornamental turf, golf courses, roadsides, and railroads. The risk assessment was conducted using the following residential exposure assumptions: Adults and children may be exposed to residues of pyraflufen-ethyl through post-application contact with treated areas which may include residential/recreational areas.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether pyraflufen-ethyl has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, pyraflufen-ethyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that pyraflufen-ethyl has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of the FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose

level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity*. There is no evidence of increased susceptibility of rat or rabbit fetuses following *in utero* exposure in the developmental studies with pyraflufen-ethyl. There is no evidence of increased susceptibility of young rats in the reproduction study with pyraflufen-ethyl. EPA concluded there are no residual uncertainties for prenatal and/or postnatal exposure.

3. *Conclusion*. There is a complete toxicity data base for pyraflufen-ethyl and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The field trial data on potato, field corn and soybean, while some of which may be limited in geographic representation, indicate that residues of pyraflufen-ethyl are expected to be below the levels of quantitation. The likelihood of finite residues to occur in these crops is quite low. EPA determined that the 10X SF to protect infants and children should be removed and instead, a different additional safety factor of 1X should be used. The FQPA factor is removed because: There is no evidence of increased susceptibility of rat or rabbit fetuses following *in utero* exposure in the developmental studies with pyraflufen-ethyl; there is no evidence of increased susceptibility of young rats in the reproduction study with pyraflufen-ethyl; there are no residual uncertainties identified in the exposure data bases; the dietary food exposure assessment is expected to be conservative, tolerance-level residues and 100 PCT information were used; and dietary drinking water exposure is based on conservative modeling estimates.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and bwts. Default bwts and consumption values as used by the U.S. EPA Office of water are used to calculate DWLOCs: 2 liter (L)/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default bwts and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. No adverse effect attributable to a single exposure (dose) of pyraflufen-ethyl was observed in the oral toxicity studies, including the developmental toxicity studies in rats and rabbits. Therefore, an acute RfD was not established and no acute risk is expected.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to pyraflufen-ethyl from food will utilize <1% of the cPAD for the U.S. population and <1% of the cPAD for children (3–5 years). Based on the use pattern, chronic residential exposure to residues of pyraflufen-ethyl is not expected. In addition, there is potential for chronic dietary exposure to pyraflufen-ethyl in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3.

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON- CANCER) EXPOSURE TO PYRAFLUFEN-ETHYL

Population Subgroup[1]	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)[2]	Ground Water EEC ppb)[2]	Chronic DWLOC (ppb)[3]
U.S. population	0.20	<1	0.28	0.002	7,000
Adults (20–49 years)	0.20	<1	0.28	0.002	7,000
Females (13–49 years)	0.20	<1	0.28	0.002	6,000
Children (1–2 years)	0.20	<1	0.28	0.002	2,000
Children (3–5 years)	0.20	<1	0.28	0.002	2,000

[1] Subgroups with the highest food-source dietary exposure were selected for adult males, adult females and children. The following bwts were used (70 kg adult male; 60 kg adult females; 10 kg child).
[2] The crop producing the highest level was used (potatoes, 0.009 lb active ingredient/acre (a.i./a)).
[3] Chronic DWLOC (ppb) = [maximum chronic water exposure (mg/kg/day) x bwt (kg)] ÷ [water consumption (L) x 10^{-3} mg/µg]

3. *Short-term risk*. The short-term aggregate risk assessment estimates risks likely to result from 1 to 30 day exposure to pyraflufen-ethyl residues from food, drinking water, and residential pesticide uses. High-end estimates of residential exposure are used in the short-term aggregate assessment, while average (chronic)

values are used to account for dietary (food only) exposure. The short-term aggregate risk assessment is considered conservative because food-source dietary exposure is based on a Tier 1 DEEM assessment (tolerance level residues and 100% crop treated information were used).

A short-term risk aggregate assessment is not performed for adults because no handler exposure is expected and post-application inhalation exposure is expected to be negligible. A short-term aggregate risk assessment is required for infants and children because there is a potential for oral post-application exposure resulting from residential uses.

Pyraflufen-ethyl is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for pyraflufen-ethyl.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 122,000 for children (1–2 years old) and 122,000 for children (3–5years old). These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of pyraflufen-ethyl in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface water and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4.

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO PYRAFLUFEN-ETHYL

Population Subgroup	Aggregate MOE (Food + Residential)[1]	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)[2]	Ground Water EEC (ppb)[2]	Short-Term DWLOC (ppb)[3]
Children (1–2 years)	122,000	100	0.28	0.002	2,000
Children (3–5 years)	122,000	100	0.28	0.002	2,000

[1] Aggregate MOE = NOAEL ÷ (Avg Food Exposure + Residential Exposure).
[2] The crop producing the highest level was used (potatoes, 0.009 lb ai/acre).
[3] DWLOC (ppb) = [maximum water exposure (mg/kg/day) x bwt (kg)] ÷ [water consumption (L) x 10^{-3} mg/µg]
*(bwt: Children–10 kg)

4. *Intermediate-term risk*. The intermediate-term aggregate risk assessment estimates risks likely to result from 1 to 6 months of exposure to pyraflufen-ethyl residues from food, drinking water, and residential pesticide uses. High-end estimates of residential exposure are used in the intermediate-term assessment, while average values are used for food and drinking water exposure.

An intermediate-term risk aggregate assessment is not performed for adults because no handler exposure is expected and postapplication inhalation exposure is expected to be negligible. Also, an intermediate-term aggregate risk assessment is not performed for infants and children because postapplication exposure over the intermediate-term duration is not likely based on the use pattern.

5. *Aggregate cancer risk for U.S. population*. Pyraflufen-ethyl has been classified as ''Likely to be Carcinogenic to Humans'' by the oral route of exposure (Q_1* of 3.32 x 10^{-2} (mg/kg/day)$^{-1}$). Using the exposure assumptions discussed in this unit for cancer, the carcinogenic risk is determined for the U.S. population (total) only. The aggregate cancer DWLOC (1.6 ppb) is greater than EPA's estimates of pyraflufen-ethyl residues in drinking water. The estimated exposure to pyraflufen-ethyl is 4 x 10^{-5} mg/kg/day. Applying the Q_1* of 0.0332 (mg/kg/day)$^{-1}$ to the exposure value results in a cancer risk estimate of 10^{-6}. Therefore, the aggregate cancer risk from residues of pyraflufen-ethyl in food and drinking water does not exceed EPA's level of concern as shown in the following Table 5.

TABLE 5.—CANCER DWLOC CALCULATIONS FOR THE U.S. POPULATION

Q_1* (mg/kg/day)$^{-1}$	Negligible Risk Level[1]	Chronic Food Exposure mg/kg/day	Ground Water EEC[2] (ppb)	Surface Water EEC[2] (ppb)	Cancer DWLOC[3] (ppb)
0.0332	3.0E-6	4.0E-5	0.002	0.28	1.6

[1] Negligible risk is that below 10^{-6}. 3.0E-6 is statistically within the range that EPA generally accepts as ''negligible risk''.
[2] The crop producing the highest level was used (potatoes). (3 Cancer DWLOC (ppb) = [maximum water exposure (mg/kg/day) x bwt (kg)] ÷ [water consumption (L) x 10^{-3} mg/µg].

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to pyraflufen-ethyl residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Nichino America, Inc., has submitted a petition method validation (PMV) and an independent laboratory validation for a Gas Chromatography/Mass Spectrometry (GC/MS) method proposed for the enforcement of tolerances for residues of pyraflufen ethyl and its acid metabolite, E-1. The proposed plant method is adequate for enforcement of tolerances in/on field corn, potato, and soybean.

Adequate enforcement methodology (example—gas chromotography) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental

Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: residuemethods@epa.gov.

B. International Residue Limits

There is neither a Codex proposal, nor Canadian or Mexican limits, for residues of pyraflufen-ethyl in/on field corn, potato, and soybean. Harmonization is not an issue for this petition.

V. Conclusion

Therefore, tolerances are established for combined residues of pyraflufen-ethyl (ethyl 2-chloro-5-(4-chloro-5-difluoromethoxy-1-methyl-1H-pyrazol-3-yl)-4-fluorophenoxyacetate) and its acid metabolite, E-1 (2-chloro-5-(4-chloro-5-difluoromethoxy-1-methyl-1H-pyrazol-3-yl)-4-fluorophenoxyacetic acid), expressed pyraflufen-ethyl in or on field corn forage, field corn grain, and field corn stover at 0.01 ppm; potato at 0.02 ppm; and soybean forage, soybean hay, and soybean seed at 0.01.

VI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2003–0110 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before June 30, 2003.

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

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

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

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP–2003–0110, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VII. Statutory and Executive Order Reviews

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

22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: April 16, 2003.

Debra Edwards,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180— [AMENDED]

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

Authority: 21 U.S.C. 321(q), 346(a) and 371.

■ 2. Section 180.585 is added to read as follows:

§ 180.585 Pyraflufen-ethyl; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide pyraflufen-ethyl (ethyl 2-chloro-5-(4-chloro-5-difluoromethoxy-1-methyl-1H-pyrazol-3-yl)-4-fluorophenoxyacetate) and its acid metabolite, E-1 (2-chloro-5-(4-chloro-5-difluoromethoxy-1-methyl-1H-pyrazol-3-yl)-4- fluorophenoxyacetic acid), in or on the following raw agricultural commodities:

Commodity	Parts per million
Corn, field, forage	0.01
Corn, field, grain	0.01
Corn, field, stover	0.01
Potato	0.02
Soybean, forage	0.01
Soybean, hay	0.01
Soybean, seed	0.01

(b) Section 18 emergency exemptions. [Reserved]

(c) Tolerances with regional registrations. [Reserved]

(d) Indirect or inadvertent residues. [Reserved]

[FR Doc. 03–10264 Filed 4–29–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0358; FRL–7304–4]

Bifenthrin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of bifenthrin in or on almond, hulls; banana; fruit, citrus, group; herb subgroup; pear; nut, tree, group; spinach; tomato; and food/feed products in food/feed handling establishments. FMC Corporation and the Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA) , as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective April 30, 2003. Objections and requests for hearings, identified by docket ID number OPP–2002–0358, must be received on or before June 30, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Susan Stanton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460–0001; telephone number: (703) 305–5218; e-mail address: *stanton.susan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer; food/feed or beverage manufacturer, wholesale or retailer; restaurant owner/worker; or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop producers (NAICS 111), e.g., tree fruit and nut growers, tomato growers and herb producers
- Animal producers (NAICS 112), including cattle, sheep, swine, dairy, and poultry producers
- Food and beverage manufacturers (NAICS 311), including canners, bottlers, brewers, bakers and other food and beverage processors
- Food and beverage stores (NAICS 445)
- Restaurants (NAICS 722)
- Pesticide manufacturers (NAICS 32532)

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

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2002–0358. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html*, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gov/opptsfrs/home/guidelin.htm*.

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 submit or 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 in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background and Statutory Findings

In the **Federal Register** of February 15, 2002 (67 FR 7159–7163) (FRL–6823–3); February 14, 2001 (66 FR 10289–10292) (FRL–6768–7); and April 25, 2001 (66 FR 20811–20815) (FRL–6778–4), EPA issued notices pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170), announcing the filing of pesticide petitions (PP 2F6390, 6F3454, 0E6216 and 1F6266) by FMC Corporation; (PP 6E4630, 0E6157, 1E6330 and 2E6402) by the Interregional Research Project Number 4 (IR-4); and (PP 1E6234) by the Taipei Economic and Cultural Representative Office. These notices included summaries of the petitions prepared by FMC Corporation, the registrant. There were no comments received in response to the notices of filing.

These petitions requested that 40 CFR 180.442 be amended by establishing tolerances for residues of the insecticide bifenthrin, (2-methyl[1,1′-biphenyl]-3-yl)methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropane-carboxylate, as follows:

1. PP 2F6390 proposed establishment of a tolerance for food products in food handling establishments at 0.01 ppm.
2. PP 6F3454 proposed establishment of a tolerance for pears at 1.0 ppm; almond hulls at 2 ppm; and tree nuts crop group at 0.05 ppm.
3. PP 0E6216 proposed establishment of a tolerance for imported bananas at 0.1 ppm.
4. PP 1F6266 proposed establishment of a tolerance for citrus whole fruits, citrus dried pulp, citrus cold pressed oil and citrus juice at 0.05 ppm.
5. PP 6E4630 proposed establishment of a tolerance for leaf petioles subgroup (4B) at 2.0 ppm.
6. PP 0E6157 proposed establishment of a tolerance for herb subgroup (19A) at 0.05 ppm.
7. PP 1E6330 proposed establishment of a tolerance for tomato at 0.15 ppm.

8. PP 2E6402 proposed establishment of a tolerance for spinach at 0.2 ppm.

9. PP 1E6234 proposed establishment of a tolerance for carambola (starfruit) at 1.0 ppm.

The residue chemistry data submitted in support of PP 6E4630 (leaf petioles subgroup) and PP 1E6234 (carambola) were determined by EPA to be insufficient to support the proposed tolerances. PP 1E6234 was subsequently withdrawn by the Taipei Economic and Cultural Representative Office. The requested tolerance for the leaf petioles subgroup (PP 6E4630) cannot be established until adequate residue chemistry data are submitted and reviewed.

Based on EPA's review, the remaining petitions described in Unit II were revised by the petitioners (FMC Corporation and IR-4) to propose tolerances for residues of bifenthrin in or on almond, hulls at 2.0 ppm; banana at 0.1 ppm; fruit, citrus, group at 0.05 ppm; herb subgroup at 0.05 ppm; pear at 0.5 ppm; nut, tree, group at 0.05 ppm; spinach at 0.2 ppm; tomato at 0.15 ppm; and food/feed products in food/feed handling establishments at 0.05 ppm. The revisions were requested for the following reasons:

EPA determined that the tolerance for pear should be set at 0.5 ppm, not 1.0 ppm as the petitioner originally proposed, based on the results of submitted field residue data, showing a maximum residue of 0.38 ppm. EPA determined that the tolerance for food/feed products in food/feed handling establishments should be set at 0.05 ppm, the limit of quantitation (LOQ) of the analytical method, rather than 0.01 ppm, the limit of detection (LOD), as the petitioner originally proposed. It is Agency policy to use the LOQ for setting tolerances when detectable residues are not found in the residue trials. No other changes to the originally proposed tolerance levels were requested; however, EPA did request minor changes in commodity terms to reflect current nomenclature practices.

Although EPA requested changes to the initial petitions, the nature of the changes is not considered significant. Therefore, EPA is issuing this as a final action.

EPA is also deleting time-limited tolerances established for residues of bifenthrin in or on citrus, dried pulp, at 0.3 ppm, citrus oil at 0.3 ppm and citrus, whole fruit, at 0.05 ppm in connection with section 18 emergency exemptions granted by EPA. With the establishment of the citrus fruit group tolerance (PP 1F6266), these tolerances are no longer needed.

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

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for a tolerance for residues of bifenthrin in or on almond, hulls at 2.0 ppm; banana at 0.1 ppm; fruit, citrus, group 10 at 0.05 ppm; herb subgroup 19A at 0.05 ppm; pear at 0.5 ppm; nut, tree, group 14 at 0.05 ppm; spinach at 0.2 ppm; tomato at 0.15 ppm; and food/feed products in food/feed handling establishments at 0.05 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by bifenthrin are discussed in Table 1 of this unit as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline Number	Study Type	Results
870.3100	90–Day Oral Toxicity - Rat (1984)	NOAEL = 3.8 mg/kg/day (males); 4.3 mg/kg/day (females) LOAEL = 7.5 mg/kg/day (males), 8.5 mg/kg/day (females), based on increased incidence of tumors. Classification: Acceptable-Guideline
870.3150	90–Day Oral Toxicity - Dog (1984)	NOAEL = 2.21 mg/kg/day (males and females) LOAEL = 4.42 mg/kg/day (males and females) based on increased incidence of tremors. Classification: Acceptable-Guideline
870.3700	Developmental Toxicity (Gavage; corn oil vehicle) - Rat (1983)	Maternal Toxicity NOAEL = 0.88 mg/kg/day LOAEL = 1.77 mg/kg/day based on tremors during gestation. Developmental Toxicity NOAEL = not determined (fetuses not examined) LOAEL = not determined (fetuses not examined) Classification: Acceptable-Guideline

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline Number	Study Type	Results
870.3700	Developmental Toxicity (Gavage; corn oil vehicle) - Rat (1984)	Maternal Toxicity NOAEL = 0.88 mg/kg/day LOAEL = 1.77 mg/kg/day based on tremors during gestation. Developmental Toxicity NOAEL = 0.88 mg/kg/day LOAEL = 1.77 mg/kg/day based on increased fetal and litter incidence of hydroureter without nephrosis. Classification: Acceptable-Guideline
870.3700	Developmental Toxicity (Dietary) - Rat (2001)	Maternal Toxicity NOAEL = 7.1 mg/kg/day LOAEL = 15.5 mg/kg/day based clinical signs and decreased food consumption, body weight gains, and body weight gains adjusted for gravid uterine weight. Developmental Toxicity NOAEL = 15.5 mg/kg/day LOAEL = not observed. Classification: Acceptable-Guideline
870.3700	Developmental Toxicity - Rabbit (1984)	Maternal Toxicity NOAEL = 2.36 mg/kg/day LOAEL = 3.5 mg/kg/day based on treatment-related head and forelimb twitching. Developmental Toxicity NOAEL = greater than 7 mg/kg/day LOAEL = not observed Classification: Acceptable-Guideline
870.3800	Multigeneration Reproductive Toxicity - Rat (1986)	Parental/Systemic Toxicity NOAEL = 3.0 mg/kg/day for females and 5.0 mg/kg/day for males LOAEL = 5.0 mg/kg/day for females, based on tremors and decreased body weight; not observed for males. Reproductive/offspring Toxicity NOAEL = not observed. LOAEL = not observed. Classification: Acceptable-Guideline
870.4100	Chronic Toxicity - Dog (1985)	NOAEL = 1.3 mg/kg/day (males and females) LOAEL = 2.7 mg/kg/day (males and females) based on increased incidence of tremors. Classification: Acceptable-Guideline
870.4300	Combined Chronic Toxicity/ Carcinogenicity - Rat (1986)	NOAEL = 3.0 mg/kg/day (females); 4.7 mg/kg/day (males) LOAEL = 6.1 mg/kg/day (females), based on increased incidence of tremors; 9.7 mg/kg/day (males), based on increased incidence of tremors. Carcinogenicity - No conclusive evidence of carcinogenic potential. Classification: Acceptable-Guideline
870.4200	Carcinogenicity - Mice (1986)	NOAEL = 6.7 mg/kg/day (males); 8.8 mg/kg/day (females) LOAEL = 25.6 mg/kg/day (males) and 32.7 mg/kg/day (females), based on increased incidence of tremors. Carcinogenicity - carcinogenic potential was evidenced by a dose-related increased in the incidence of leiomyosarcomas in the urinary bladder, a significant dose-related trend for combined hepatocellular adenomas and carcinomas in males, and a significantly higher incidence of combined lung adenomas and carcinomas in females. Classification: Acceptable-Guideline
870.6200	Acute Neurotoxicity - Rat	NOAEL = 35 mg/kg (32.8 mg ai/kg/day). LOAEL = 75 mg/kg (70.3 mg ai/kg/day) based on mortality (females only), clinical and functional operational battery (FOB) findings and differences in motor activity. Classification: Acceptable-Guideline
870.6200	Subchronic Neurotoxicity - Rat	NOAEL = 50 ppm (equivalent to 2.9 mg/kg/day in males and 3.7 mg/kg/day in females). LOAEL =100 ppm (equivalent to 6.0 mg/kg/day in males and 7.2 mg/kg/day in females) based on neuromuscular findings (tremors, changes in grip strength and landing footsplay). Classification: Acceptable-Guideline
870.3200	Dermal Toxicity - Rabbit	NOAEL = 88 mg ai/kg/day (males and females) LOAEL = 442 mg ai/kg/day (males and females), based on loss of muscle coordination and increased incidence of tremors.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline Number	Study Type	Results
870.3200	Dermal Toxicity - Rat	NOAEL = 47 mg ai/kg/day (males and females) LOAEL = 93 mg ai/kg/day (males and females), based on loss of muscle coordination and increased incidence of tremors.
870.7485	Metabolism - Rat	Very little of the administered radioactive dose was expired as $^{14}C\text{-}CO_2$ (0.028% for males and 0.053% for females). The majority (about 70%) of the administered radioactivity was found in the feces with about 20% in the urine. A complication of this study is that males were administered a radioactive dose with the label in the acid position, while females were administered a radioactive dose with the label in the alcohol position. This could make comparisons between males and females difficult. Despite the difference in ^{14}C-labeling position in the bifenthrin administered to males and females, the study is acceptable. This conclusion is based on the fact that most (>90%) of the radioactivity was eliminated via the urine and feces, with no significant differences between the sexes in this respect. Further, there were no significant differences between dosage groups in percentages excreted. This suggests that most of the compound is excreted with little or no change, or in a form incorporating both of the labeled sites. The results also show that females retained slightly more radioactivity in their bodies (particularly in adipose tissue) than did males, particularly at the high-dose. Labeling of the material given to the females was in the biphenyl group, and, given a splitting of the molecule between the two labeling sites, this would have tended to give a more lipophilic radiolabeled residue. Classification: Acceptable-Guideline
870.7485	Metabolism - Rat	Plasma radioactivity in the low-dose (4 mg/kg) animals after dosing slowly rose, indicating a slow rate of absorption from the gastrointestinal tract. The half-life of absorption was calculated to be about 1.5 hours, with a lag-time of 0.5 hours following first order kinetics. Radioactivity peaked in plasma for low-dose animals in 4 hours. The elimination of ^{14}C-bifenthrin from the plasma was equally slow, with significant radioactivity still remaining in blood at 72 hours. Plasma radioactivity in the high-dose (35 mg/kg) animals appeared to follow a similar course as seen in the low-dose animals. The peak radioactivity for the high-dose group appeared to be somewhat delayed, peaking at about 6 hours. Significant radioactivity still remained after 72 hours in the high-dose animals. Classification: Acceptable-Guideline
870.7485	Metabolism - Rat	The major metabolic route of radiolabeled bifenthrin appeared to be hydrolysis of the ester linkage with oxidation of the resulting alcohol to the acid. Protein binding of radioactive components or metabolites appears to increase with time. Classification: Acceptable-Guideline
870.7485	Metabolism - Rat	Fat and skin half-lives were the longest with half-lives of 51 and 50 days, respectively. The half-lives for ovaries, liver, kidneys and sciatic nerve were 37.4, 19.0, 28.5, and 42 days, respectively. Radioactive components were measured in fat at numerous time intervals, before and after daily dosing. The major component in fat is parent compound with a half-life of 47.5 days. Other unidentified components included a somewhat polar (R_f = 0.65) compound and two other relatively minor components. Classification: Acceptable-Guideline
870.7485	Metabolism - Rat	Within 7 days, nearly all bifenthrin and/or metabolites were excreted in either urine or feces. The majority of radioactivity was excreted in the feces within 48 hours. Tissues that retained bifenthrin and/or metabolites beyond 7 days included fat and skin in males and females, and gonads in females. Classification: Unacceptable-Guideline. Although the number of animals/group in this study was 3, and not 5/sex/group as recommended by guidelines, and a quality assurance statement was lacking, the results of this study provide useful information.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline Number	Study Type	Results
870.7485	Metabolism - Rat	Results showed minimal breakage of the ester linkage of the parent compound in the material eliminated via the feces in the period of 0–48 hours after dosage, when most of the administered radioactivity is identifiable as coming from unmodified parent compound. However, the material was subsequently eliminated, although a relatively small proportion of the administered dose appears to have undergone more modification. Since a greater proportion of the radioactivity was eliminated via the feces in the period of 48–168 hours in the form of 2-Methyl-3-phenylbenzyl alcohol and 2-Methyl-3-phenylbenzoic acid than the parent compound, this is evidence that extensive breakage of the ester linkage does occur, either in the material retained in the intestines for more than 46 hours, or in the material absorbed and subsequently eliminated via the feces. Classification: Unacceptable-Guideline. While this study is limited, it dose provide some insight into the incomplete absorption of bifenthrin from the intestine, and the lack of modification of most of the unabsorbed material, particularly that eliminated via the feces during the period of 0–48 hours. However, the metabolism of the absorbed compound (radioactivity primarily excreted via the urine, despite differences in labeling) is less clear.
870.7485	Metabolism - Rat	The results of the study demonstrated that the majority of radioactivity excreted in the feces was the parent compound and its intact hydroxylated metabolites. Much of the radioactivity excreted in urine was hydrolytic and hydrolytic/oxidative degradation products of the parent compound. Classification: Unacceptable-Guideline.
870.7600	Dermal Penetration - Rats	For animals in group A, means of 4.6, 14.2, 12.8 and 14.7% total dose were recovered from the skin at 0, 4, 10 and 24 hours post-dose; corresponding percentages in the wash were 94.6, 80.8, 78.6 and 70%. For animals in group B, means of 20.0, 37.9, 42.0 and 41.2% remained (and were recovered from) the skin at 0, 4, 10 and 24 hours post-dose; corresponding percentages in the wash were 73.9, 50.6, 41.3 and 37.7% respectively. This dermal absorption study is classified as acceptable. However, because only one dose was used, this study, by itself, does not satisfy the guideline requirement for a dermal penetration study in the rat for technical bifenthrin (FMC 54800). However, it can be used, in conjunction with other dermal penetration studies, as supporting data for the purposes of registration and/or reregistration of products containing or consisting of bifenthrin.
870.7600	Dermal Penetration - Rats	Means of 96.83, 84.75, 76.86 and 72.88% of the radioactivity were recovered in the skin wash at 0, 4, 10 and 24 hours post dosage, respectively. By the time the 4–hour post-dose and later skin samples were collected the emulsifying solvents had evaporated. Means of 4.04, 12.00, 16.55 and 19.44% total dose were recovered from the washed skin of the application site at 0, 4, 10 and 24 hours respectively; corresponding mean percentages recovered from the carcass were 0.09, 0.87, 0.85 and 1.67%. Mean percentages recovered in urine and feces were 0, 0.14, 0.43 and 3.23%. This dermal absorption study is classified as acceptable. However, because only one dose was used, this study, by itself, does not satisfy the guideline requirement for a dermal penetration study in the rat for technical bifenthrin (FMC 54800). However, it can be used, in conjunction with other dermal penetration studies, as supporting data for the purposes of registration and/or reregistration of products containing or consisting of bifenthrin.
870.7600	Dermal Penetration - Rats	In general, only very small amounts of radioactivity were present in blood, excrement, and carcasses, with almost all (approximately 99%) of the absorbed radioactivity localized in skin at the application site, and in the skin adjacent to the application site. Average percentages of FMC 54800 dosages absorbed at 10 hours were 55.8%, 54.1%, and 37.5% for the 49.2, 514 and 5253 μg/rat groups respectively. Corresponding percentages for the 3 groups at the 0.5 hour sacrifice were 54.6%, 56.4%, and 52.5%, so the percentage absorption of FMC 54800 did not seem to depend on time-to-sacrifice. At 10 hours and the lowest dose level, the percentages present were as follows: excreta: <0.44%; carcass: <1.8%; skin at application site: 50.3%; skin adjacent to application site: 5.5%. At 10 hours and the highest dose level, the percentages of total dose present were as follows: excreta: 0.07%; carcass: 0.5%; skin at application site: 34.6%; skin adjacent to application site: 2.7%. Classification: This dermal absorption study is classified as acceptable. However, by itself, does not satisfy the guideline requirement for a dermal penetration study in the rat for technical bifenthrin (FMC 54800). However, it can be used, in conjunction with other dermal penetration studies, as supporting data for the purposes of registration and/or reregistration of products containing or consisting of bifenthrin.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline Number	Study Type	Results
870.7600	Dermal Penetration - Rats	The report states that at 24 hours postdose, 5.11% of the dose was absorbed (application-site skin + carcass + urine + feces) in this second trial. However, it is noted that there was poor recovery (68% of the total dose) from one of the rats (C32545) sacrificed at 24 hours in the second trial; disregarding the findings from this one animal then the mean value of the dose that was absorbed was 5.88%, and this can be taken as a reasonable estimate of the dermal absorption at this dose level. This dermal absorption study is classified as acceptable. However, because only one dose was used, this study, by itself, does not satisfy the guideline requirement for a dermal penetration study in the rat for technical bifenthrin (FMC 54800). However, it can be used, in conjunction with other dermal penetration studies, as supporting data for the purposes of registration and/or reregistration of products containing or consisting of bifenthrin.

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences. In this case, EPA has determined that an additional 10X data base uncertainty factor (UF_{DB}) is needed to account for the lack of a developmental neurotoxicity (DNT) study when assessing acute (single dose) exposure scenarios. EPA has further determined that for repeated dose exposure scenarios (i.e., chronic dietary; short- and intermediate-term incidental oral; and short-, intermediate-, and long-term dermal and inhalation scenarios) a 3X UF_{DB} is adequate to account for the lack of the DNT study. The factors which EPA considered in making these determinations are discussed in detail below in Unit III.D.3.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor (SF) is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA SF.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. In this case, since 300 is the appropriate UF for repeated dose exposure scenarios (10X to account for interspecies differences;10X for intraspecies differences and 3X for data base uncertainty) the LOC is 300. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for bifenthrin used for human risk assessment is shown in Table 2 of this unit:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR BIFENTHRIN FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary (General population including infants and children)	NOAEL = 32.8 mg ai/kg UF = 1,000 Acute RfD = 0.033 mg/kg/day	FQPA SF = 1X aPAD = acute RfD ÷ FQPA SF = 0.033 mg/kg/day	Acute Neurotoxicity Study in Rats LOAEL = 70.3 mg/kg/day based on observations of mortality (females only), clinical and functional operational battery (FOB) findings and differences in motor activity.
Chronic Dietary (All populations)	NOAEL = 1.3 mg/kg/day UF = 300 Chronic RfD = 0.004 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD ÷ FQPA SF = 0.004 mg/kg/day	1–Year Oral Study in Dogs LOAEL = 2.7 mg/kg/day based on observations of increased incidence of tremors in both sexes.

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR BIFENTHRIN FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Incidental Oral Short-Term (1 – 30 Days) Residential Only	NOAEL = 2.21 mg ai/kg/day UF = 300	FQPA SF = 1X LOC for MOE = 300	90–Day Oral Study in Dogs LOAEL = 4.42 mg ai/kg/day based on observations of increased incidence of tremors in both sexes.
Incidental Oral Intermediate-Term (1 – 6 Months) Residential Only	NOAEL = 2.21 mg ai/kg/day UF = 300	FQPA SF = 1X LOC for MOE = 300	90–Day Oral Study in Dogs LOAEL = 4.42 mg ai/kg/day based on observations of increased incidence of tremors in both sexes.
Short-Term Dermal (1 to 30 days) (Residential)	dermal study NOAEL = 47 mg/kg/day	FQPA SF = 1X LOC for MOE = 300 (Residential)	21–Day Dermal Study in Rats LOAEL = 93 mg/kg/day based on observations of clinical signs (staggered gait and exaggerated hindlimb flexion).
Intermediate-Term Dermal (1 to 6 months) (Residential)	dermal study NOAEL = 47 mg/kg/day	FQPA SF = 1X LOC for MOE = 300 (Residential)	21–Day Dermal Study in Rats LOAEL = 93 mg/kg/day based on observations of clinical signs (staggered gait and exaggerated hindlimb flexion).
Long-Term Dermal (several months to lifetime) (Residential)	dermal study NOAEL = 47 mg/kg/day	FQPA SF = 1X LOC for MOE = 300 (Residential)	21–Day Dermal Study in Rats LOAEL = 93 mg/kg/day based on observations of clinical signs (staggered gait and exaggerated hindlimb flexion).
Short-Term Inhalation (1 to 30 days) (Residential)	oral study NOAEL = 2.21 mg/kg/day	FQPA SF = 1X LOC for MOE = 300 (Residential)	90–Day Oral Study in Dogs LOAEL = 4.42 mg/kg/day based on observations of increased incidence of tremors in both sexes.
Intermediate-Term Inhalation (1 to 6 months) (Residential)	oral study NOAEL = 2.21 mg/kg/day	FQPA SF = 1X LOC for MOE = 300 (Residential)	90–Day Oral Study in Dogs LOAEL = 4.42 mg/kg/day based on observations of increased incidence of tremors in both sexes.
Long-Term Inhalation (several months to lifetime) (Residential)	oral study NOAEL = 1.3 mg/kg/day	FQPA SF = 1X LOC for MOE = 300 (Residential)	1–Year Oral Study in Dogs LOAEL = 2.7 mg/kg/day based on observations of increased incidence of tremors in both sexes.
Cancer (oral, dermal, inhalation)	EPA's Carcinogenicity Peer Review Committee (CPRC) has characterized bifenthrin as a Category C (possible human) carcinogen, primarily on the basis of the mouse carcinogenicity study in which the high-dose males (81.3 mg/kg/day) showed a highly significant increased incidence of urinary bladder tumors. Other findings in the mouse study included a dose-related trend of increased combined incidences of adenoma and adenocarcinoma of the liver (males only), and increased incidences of bronchioalveolar adenomas and adenocarcinomas of the lung in females at some, but not all, doses relative to their controls. The Agency did not recommend assignment of a Q1* but has determined that the reference dose (RfD) approach should be used for quantification of human risk.		

*The reference to the FQPA SF refers to any additional SF retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.442) for the residues of bifenthrin in or on a variety of raw agricultural commodities. Tolerances have been established on plant commodities ranging from 0.05 ppm for corn grain, peas, beans and eggplant to 10 ppm for dried hops and on animal commodities ranging from 0.01 ppm for meat byproducts to 1.0 ppm for milk fat and fat of cattle, goats, hogs, horses, and sheep. Risk assessments were conducted by EPA to assess dietary exposures from bifenthrin in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: A probabilistic dietary exposure assessment was conducted for the general U.S. population and all population subgroups, including infants and children. The highly refined assessment incorporated the most recent USDA Pesticide Data Program (PDP) monitoring data, field trial data and processing factor data (for grapes and pending uses). It assumed 100% crop treated for the new and existing uses.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM® analysis evaluated the

individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: A highly refined chronic exposure assessment was conducted which incorporated the most recent PDP monitoring data, field trial data and processing factor data (for grapes and pending uses). It assumed 100% crop treated for the new and existing uses.

iii. *Cancer*. Bifenthrin has been classified as a Category C (possible human) carcinogen. The Agency has determined that the reference dose (RfD) approach should be used for quantification of human risk. For further discussion of the weight-of-the-evidence considered by EPA in making this determination, see the proposed rule for Bifenthrin tolerances (59 FR 9167, February 25, 1994) (FRL–4756–1). Under this approach, chronic dietary exposures that are less than the RfD (or cPAD) are assumed to be protective for cancer dietary exposure as well. Therefore, a separate cancer dietary risk assessment was not conducted.

iv. *Anticipated residue and percent crop treated (PCT) information*. Section 408(b)(2)(E) of the FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E) of the FFDCA, EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) of the FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F) of the FFDCA, EPA may require registrants to submit data on PCT.

The Agency did not use percent crop treated information for assessing dietary risk from bifenthrin.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for bifenthrin in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of bifenthrin.

The Agency uses the FQPA Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS), to produce estimates of pesticide concentrations in an index reservoir. The SCI-GROW model is used to predict pesticide concentrations in shallow groundwater. For a screening-level assessment for surface water EPA will use FIRST, a tier 1 model, before using PRZM/EXAMS, a tier 2 model. The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. While both FIRST and PRZM/EXAMS incorporate an index reservoir environment, the PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to bifenthrin they are further discussed in the aggregate risk sections in Unit III.E.

Based on the FIRST and SCI-GROW models the estimated environmental concentrations (EECs) of bifenthrin for acute exposures are estimated to be 0.1 parts per billion (ppb) for surface water and 0.006 ppb for ground water. The EECs for chronic exposures are estimated to be 0.1 ppb for surface water and 0.006 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Bifenthrin is currently registered for use on the following residential non-dietary sites: ornamental gardens, lawns, turf, and general insect control in, around and on buildings, structures, and immediate surroundings. There are also uses for spot treatments and crack and crevice treatments for insects in, on, and around homes, buildings, and other structures and for subsoil treatment around structures for control of termites (termiticide use). The risk assessment was conducted using the following residential exposure assumptions: Adults and children are potentially exposed to bifenthrin residues after application of bifenthrin products in residential settings. Short- and intermediate-term post-application dermal exposures for adults, and short- and intermediate-term post-application dermal and incidental oral exposures for children are anticipated. Risk estimates were generated for potential contact with lawn, soil, and treated indoor surfaces using EPA's Draft Standard Operating Procedures for Residential Exposure Assessment; and for the lawn exposure scenarios, dissipation data from a chemical specific turf transferable residue (TTR) study. Indoor surface residues in homes were based on crack and crevice data collected for bifenthrin and another insecticide, malathion. These estimates are considered conservative screening level estimates, since the study data were adjusted to reflect maximum application rates.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of the FFDCA

requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether bifenthrin has a common mechanism of toxicity with other substances. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to bifenthrin and any other substances and bifenthrin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that bifenthrin has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's Web site at *http://www.epa.gov/pesticides/cumulative/*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of the FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity*. EPA concluded that there is not a concern for pre- and/or postnatal toxicity resulting from exposure to bifenthrin. There was no quantitative or qualitative evidence of increased susceptibility of rat or rabbit fetuses to *in utero* exposure to Bifenthrin in developmental toxicity studies and no quantitative or qualitative evidence of increased susceptibility of neonates (as compared to adults) to bifenthrin in a 2-generation reproduction study in rats. In addition, there are no concerns or residual uncertainties for pre and/or post-natal toxicity following exposure to Bifenthrin.

3. *Conclusion*. No special FQPA safety factor is needed based on concerns for pre- and/or postnatal toxicity to bifenthrin. However, EPA has concluded that in light of the lack of the DNT study there is no reliable basis for removing the additional FQPA 10X safety factor when assessing acute (single dose) exposure scenarios. The following points were considered in this determination:

i. It is assumed that the DNT study will be conducted at dose levels similar to those used in the rat reproduction study with Bifenthrin wherein the offspring NOAEL was 5.0 mg/kg/day, the highest dose tested (no effects were observed in offspring at this dose); but that the DNT study would not be conducted at dose levels higher than 10 mg/kg/day since a range-finding study indicates excessive fetotoxicity occurred at this dose (all pups from 2 of the 4 litters at 10 mg/kg/day died within 14 days of birth).

ii. The DNT study may impact the currently selected acute regulatory dose since the NOAEL used to establish the acute Reference dose for dietary risk assessment is 33 mg/kg/day, a level which is more than 5–fold higher than the offspring NOAEL in the rat reproduction study of 5.0 mg/kg/day (a level which is similar to dose levels likely to be used in the DNT study).

EPA has further determined that for repeated dose exposure scenarios a 3X UF_{DB} is adequate to account for the lack of the DNT study. Repeated dose exposure scenarios include chronic dietary exposure; short-term (repeated exposure up to 30 days) and intermediate-term (repeated exposure from 1 to 6 months) incidental oral exposure; and short-term, intermediate-term, and long-term (several months to lifetime) dermal and inhalation exposure scenarios. EPA's determination that a 3X UF_{DB} is adequate for repeated dose exposure scenarios is based on the following considerations:

a. As stated above, the DNT study will likely be conducted at dose levels similar to the rat reproduction study.

b. The results of the DNT study are not expected to impact the current regulatory doses selected for repeated exposure scenarios since the NOAELs used for these risk assessment endpoints (e.g., 1.3 mg/kg/day from the chronic dog study for chronic RfD) are approximately 4–fold lower than the offspring NOAEL (5.0 mg/kg/day) in the rat reproduction study conducted with Bifenthrin. Although the results of the DNT are not expected to impact the current regulatory dose given the 4–fold difference observed in the rat and dog studies, EPA does not have sufficient reliable data to apply no additional FQPA safety factor. Rather, EPA believes that the 4X difference between the offspring NOAEL in the rat reproduction study and the NOAELs used for risk assessment endpoints provides reliable data supporting a 3X UF for repeated dose exposure scenarios. The use of a 3X provides roughly a 10–fold difference between the NOAEL associated with the identified effects in the rat necessitating the DNT study and the NOAELs used for setting regulatory doses. Therefore, a UF_{DB} of 3X will be applied as a FQPA safety factor to repeated dose exposure scenarios to account for the lack of the DNT study with Bifenthrin.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water [e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure)]. This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA are used to calculate DWLOCs: 2 liter (L)/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Actual body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the

calculated DWLOCs, EPA concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to bifenthrin will occupy 32% of the aPAD for the U.S. population, 19% of the aPAD for females 13 to 50 years old, 52% of the aPAD for infants less than 1 year old and 38% of the aPAD for children 1 to 6 years old. In addition, there is potential for acute dietary exposure to bifenthrin in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in Table 3 of this unit:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO BIFENTHRIN

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
U.S. population	0.033	32	0.1	0.006	780
All Infants (<1 year old)	0.033	52	0.1	0.006	160
Children (1–6 years old)	0.033	38	0.1	0.006	200
Females (13–50 years old)	0.033	19	0.1	0.006	800

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to bifenthrin from food will utilize 12% of the cPAD for the U.S. population, 13% of the cPAD for infants less than 1 year old and 24% of the cPAD for children 1 to 6 years old. Based on the use pattern, chronic residential exposure to residues of bifenthrin is not expected. In addition, there is potential for chronic dietary exposure to bifenthrin in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in Table 4 of this unit:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR CHRONIC EXPOSURE TO BIFENTHRIN

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.004	12	0.1	0.006	120
All Infants (<1 year old)	0.004	13	0.1	0.006	35
Children (1–6 years old)	0.004	24	0.1	0.006	30

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Bifenthrin is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for bifenthrin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 544 to 1,070 for adult male and female homeowners applying bifenthrin to turf, treating structural wood or making crack and crevice applications indoors. EPA has further concluded that food and residential exposures aggregated result in aggregate MOEs of 354 for children (toddlers) with post-application exposure outdoors and 694 for children (toddlers) with post-application exposure following indoor crack and crevice treatments. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of bifenthrin in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in Table 5 of this unit:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO BIFENTHRIN

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
Adult Female: Structural Wood Treatment	544	300	0.1	0.006	100
Adult Male: Structural Wood Treatment	546	300	0.1	0.006	120
Adult Female: Indoor Crack and Crevice Treatment	855	300	0.1	0.006	140
Adult Male: Indoor Crack and Crevice Treatment	858	300	0.1	0.006	170
Children (Toddler): Outdoor Post-application Exposure	354	300	0.1	0.006	11
Children (Toddler): Indoor Post-application Exposure	694	300	0.1	0.006	42

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Bifenthrin is currently registered for use(s) that could result in intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and intermediate-term exposures for bifenthrin. However, since short-term risk estimates for residential handler and post-application exposures to bifenthrin represent worst-case risk estimates for intermediate-term scenarios, separate intermediate-term aggregate risks were not estimated. Short-term risk estimates are considered to represent worst-case risk estimates for intermediate-term scenarios for the following reasons.

The toxic endpoints used to estimate risks for intermediate-term dermal, incidental oral, and inhalation exposures for bifenthrin are the same as those used to estimate risks from short-term exposures. In addition, EPA used the same residue data from outdoor (turf) and indoor (hard-surface) studies to estimate short and intermediate-term exposures. Any differences in the exposure estimates are a result of the assumptions used for activity patterns, which may differ for short versus intermediate-term exposure depending on the scenario assessed. As a result of these differences, exposure estimates for intermediate-term exposure scenarios are either equal to or lower than exposure estimates for short-term scenarios. Consequently, risk estimates (MOEs) for intermediate-term exposures are equal to or greater than MOEs for short-term exposures. Since short-term risk estimates are below levels of concern, intermediate-term risk estimates are also below levels of concern.

5. *Aggregate cancer risk for U.S. population.* Bifenthrin has been classified as a Category C (possible human) carcinogen. The Agency has determined that the reference dose (RfD) approach should be used for quantification of human risk. Therefore, the chronic aggregate risk assessment described above in Unit III.E.2. also encompasses chronic aggregate cancer risk from bifenthrin.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methods are available for determination of the regulated bifenthrin residue in plants. Crop field trial samples were analyzed for residues of bifenthrin using FMC Methods P–1073, P–1089, P–1645M, P–2132M, P–3133, or P–3346. These methods are variations of two other methods which have been submitted for inclusion in PAM II (FMC's Methods P–1031 and RAN–0140). These methods have been adequately validated and are adequate for data collection.

The methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

The Codex Alimentarius Commission has established several maximum residue limits (MRLs) for residues of bifenthrin in/on various commodities. The Codex MRLs are expressed in terms of bifenthrin per se. The Codex MRL and the U.S. tolerance expressions are compatible.

Of the new commodities for which tolerances are being established, Codex MRLS exist only for pear, grapefruit, lemon and orange. The Codex MRLs of 0.5 ppm for pear and 0.05 ppm for grapefruit, lemon and orange are compatible with the new U.S. tolerances for pear (0.5 ppm) and citrus fruit (0.05 ppm). Codex MRLs have not been established for bananas, herbs, tomatoes, spinach or tree nuts.

The following conclusions can be made regarding efforts to harmonize existing (i.e., previously established) U.S. tolerances with Codex MRLs: (i) Compatibility between the U.S. tolerances and Codex MRLs exists for maize and chicken commodities except eggs; (ii) incompatibility of the U.S. tolerances and Codex MRLs remains for maize forage and fodder, strawberry, eggs, and cattle commodities because of differences in agricultural practices and/or method limits of quantitation. No questions of compatibility exist with respect to commodities where Codex MRLs have been established but U.S. tolerances do not exist.

There are no Canadian MRLs established for bifenthrin. Mexican MRLs have been established for bifentrin at 0.5 ppm for cottonseed, 0.05 ppm for maize, and 3 ppm for strawberry. These levels are compatible with the U.S. tolerance levels.

V. Conclusion

Therefore, tolerances are established for residues of bifenthrin, (2-methyl[1,1′-biphenyl]-3-yl)methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropane-carboxylate, in or on almond, hulls at 2.0 ppm; banana at 0.1 ppm; fruit, citrus, group 10 at 0.05 ppm; herb subgroup 19A at 0.05 ppm; pear at 0.5 ppm; nut, tree, group 14 at 0.05 ppm; spinach at 0.2 ppm; tomato at 0.15 ppm; and food/feed products in food/feed handling establishments at 0.05 ppm.

VI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0358 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before June 30, 2003.

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

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm. 104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

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

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP–2002–0358, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since

tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: April 16, 2003.

Debra Edwards,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346(a) and 371.

■ 2. Section 180.442 is amended in paragraph (a) by designating the text following the paragraph heading as paragraph (a)(1); by adding alphabetically commodities to the table in newly designated paragraph (a)(1), by adding paragraph (a)(2), and in the table to paragraph (b) by deleting the entries for ''Citrus;'' ''Citrus, dried pulp;'' and ''Citrus, oil.''.

§ 180.442 Bifenthrin; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
Almond, hulls	2.0
* * * *	*
Banana[1]	0.1
* * * *	*
Fruit, citrus, group 10	0.05
* * * *	*
Herb subgroup 19A	0.05
* * * *	*
Nut, tree, group 14	0.05
* * * *	*
Pear	0.5
* * * *	*
Spinach	0.2
* * * *	*
Tomato	0.15
* * * *	*

[1] There are no U.S. registrations as of April 30, 2003.

(2) A tolerance of 0.05 ppm is established for residues of the insecticide bifenthrin, (2-methyl[1,1′-biphenyl]-3-yl)methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropane-carboxylate, as follows:

(i) In or on all food/feed items (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling establishments.

(ii) The insecticide may be present as a residue from application of bifenthrin in food handling establishments, including food service, manufacturing and processing establishments, such as restaurants, cafeterias, supermarkets, bakeries, breweries, dairies, meat slaughtering and packing plants, and canneries, feed handling establishments including feed manufacturing and processing establishments, in accordance with the following prescribed conditions:

(A) Application shall be limited to general surface and spot and/or crack and crevice treatment in food/feed handling establishments where food/feed and food/feed products are held, processed, prepared and served. General surface application may be used only when the facility is not in operation provided exposed food/feed has been covered or removed from the area being treated. Spot and/or crack and crevice application may be used while the facility is in operation provided exposed food/feed is covered or removed from the area being treated prior to application. Spray concentration shall be limited to a maximum of 0.06 percent active ingredient. Contamination of food/feed or food/feed contact surfaces shall be avoided.

(B) To assure safe use of the insecticide, its label and labeling shall conform to that registered with the U.S. Environmental Protection Agency and shall be used in accordance with such label and labeling.

* * * * *

[FR Doc. 03–10400 Filed 4–29–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2003–0023; FRL–7290–8]

α-Hydro-ω-Hydroxypoly(oxyethylene) C8-C18-Alkyl Ether Citrates, Poly(oxyethylene) content is 4–12 moles Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of α-hydro-ω-hydroxypoly(oxyethylene) C8-C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles when used as an inert ingredient. Akzo-Nobel Industrial Specialties, Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA) requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of α-hydro-ω-hydroxypoly(oxyethylene) C8-C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles.

DATES: This regulation is effective April 30, 2003. Objections and requests for hearings, identified by docket ID number OPP–2003–0023, must be received on or before June 30, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit XI. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Bipin Gandhi, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460 telephone number: (703) 308–8380; e-mail address:gandhi.bipin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)
- Antimicrobial pesticide (NAICS 32561)

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

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0023. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html,* a beta site currently under development.

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 submit or 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 in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background and Statutory Findings

In the **Federal Register** of December 6, 2002 (67 FR 72675) (FRL–7281–9), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104–170), announcing the filing of a pesticide petition 3E6523 by Akzo-Nobel Industrial Specialties, Inc., 15200 Almeda Road, Houston, TX 77053. That notice included a summary of the petition prepared by the petitioner. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.960 (polymers) be amended by establishing an exemption from the requirement of a tolerance for residues of α-hydro-ω-hydroxy-poly(oxyethylene) C8–C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles which represent the following polymers: α-Hydro-ω-hydroxy-poly(oxyethylene) C8 alkyl ether citrates, poly(oxyethylene) content is 4–12 moles, minimum number average molecular weight (in amu) 1,300 (CAS Registration number 330977–00–9); α-Hydro-ω-hydroxy-poly(oxyethylene) C10–C16-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles, minimum number average molecular weight (in amu) 1,100 (CAS Registration number 330985–58–5); and α-Hydro-ω-hydroxy-poly(oxyethylene C16–C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles, minimum number average molecular weight (in amu) 1,300 (CAS Registration number 330985–61–0).

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

certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue.* * *'' and specifies factors EPA is to consider in establishing an exemption.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own) Solvents such as alcohols and hydro carbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers that should present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b). The following exclusion criteria for identifying these low risk polymers are described in 40 CFR 723.250(d).

1. The polymer, α-hydro-ω-hydroxypoly(oxyethylene) C8-C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles, is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer, α-hydro-ω-hydroxypoly(oxyethylene) C8-C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles, also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's minimum number average MW of 1,100 is greater than 1,000 and less than 10,000 daltons. The polymer contains less than 10% oligomeric material below MW 500 and less than 25% oligomeric material below MW 1,000, and the polymer does not contain any reactive functional groups.

Thus, α-hydro-ω-hydroxypoly(oxyethylene) C8-C18-alkyl ether citrates, poly(oxyethylene) content is 4–2 moles meet all the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the above criteria, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to α-hydro-ω-hydroxypoly(oxyethylene) C8-C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles.

V. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that α-hydro-ω-hydroxypoly(oxyethylene) C8-C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of α-hydro-ω-hydroxypoly(oxyethylene) C8-C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles is 1,100 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since α-hydro-ω-hydroxypoly(oxyethylene) C8-C18-alkyl ether citrates poly(oxyethylene) content is 4–12 moles conform to the criteria that identify a low risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

VI. Cumulative Effects

Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider ''available information'' concerning the cumulative effects of a particular chemical's residues and ''other substances that have a common mechanism of toxicity.'' The Agency has not made any conclusions as to whether or not α-hydro-ω-hydroxypoly(oxyethylene) C8-C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles share a common mechanism of toxicity with any other chemicals. However, α-hydro-ω-hydroxypoly(oxyethylene) C8-C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 conform to the criteria that identify a low risk polymer. Due to the expected lack of toxicity based on the above conformance, the Agency has determined that a cumulative risk assessment is not necessary.

VII. Determination of Safety for U.S. Population

Based on the conformance to the criteria used to identify a low risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population from aggregate exposure to residues of α-hydro-ω-hydroxypoly(oxyethylene) C8-C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles.

VIII. Determination of Safety for Infants and Children

FFDCA section 408 of the FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin safety will be safe for infants and children. Due to the expected low toxicity of α-hydro-ω-hydroxypoly(oxyethylene) C8-C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

IX. Other Considerations

A. Endocrine Disruptors

There is no available evidence that α-hydro-ω-hydroxypoly(oxyethylene) C8-C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles is an endocrine disruptor.

B. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. International Tolerances

The Agency is not aware of any country requiring a tolerance for α-hydro-ω-hydroxypoly(oxyethylene) C8-C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles nor have any CODEX Maximum Residue Levels been established for any food crops at this time.

X. Conclusion

Accordingly, EPA finds that exempting residues of α-hydro-ω-hydroxypoly(oxyethylene) C8-C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles from the requirement of a tolerance will be safe.

XI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2003–0023 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before June 30, 2003.

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

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

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

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit XI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP–2003–0023, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of

the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

XII. Statutory and Executive Order Reviews

This final rule establishes an exemption from the tolerance requirement under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications '' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

XIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: April 17, 2003.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346(a) and 371.

■ 2. Section 180.960 is amended by adding alphabetically the following inert ingredients to the table to read as follows:

§ 180.960 Polymer; exemptions from the requirement of a tolerance.

* * * * *

Polymers	CAS No.
* * * * *	
α-Hydro-ω-hydroxy-poly(oxyethylene) C8 alkyl ether citrates, poly(oxyethylene) content is 4–12 moles, minimum number average molecular weight (in amu) 1,300	330977–00–9
α-Hydro-ω-hydroxy-poly(oxyethylene) C10–C16-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles, minimum number average molecular weight (in amu) 1,100	330985–58–5
α-Hydro-ω-hydroxy-poly(oxyethylene) C16–C18-alkyl ether citrates, poly(oxyethylene) content is 4–12 moles, minimum number average molecular weight (in amu) 1,300	330985–61–0
* * * * *	

[FR Doc. 03–10262 Filed 4–29–03; 8:45 a.m.]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2003–0147; FRL–7302–4]

Bacillus thuringiensis Cry1F Protein in Cotton; Temporary Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a temporary exemption from the requirement of a tolerance for residues of the *Bacillus thuringiensis* Cry1F protein in cotton when applied/used as a plant-incorporated protectant. Mycogen Seeds, c/o Dow AgroSciences LLC, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting the temporary/tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of *Bacillus thuringiensis* Cry1F protein in cotton. The temporary tolerance exemption will expire on May 1, 2004.

DATES: This regulation is effective April 30, 2003. Objections and requests for hearings, identified by docket ID number OPP–2003–0147, must be received by EPA on or before June 30, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Leonard Cole, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5412; e-mail address: *cole.leonard@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

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

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0147. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html*, a beta site currently under development.

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 submit or 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 in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background and Statutory Findings

In the **Federal Register** of October 9, 2002 (67 FR 62971) (FRL–7196–2), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170), announcing the filing of a pesticide tolerance petition (PP 2G6494) by Mycogen Seeds, c/o Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268–1054. This notice included a summary of the petition prepared by the petitioner Mycogen Seeds, c/o Dow AgroSciences LLC. Comments were received in response to the notice of filing. These comments were from grower groups, state agencies, and academia. All comments were in support of the registration of Dow AgroSciences' stacked gene plant-incorporated protectant.

The petition requested that 40 CFR part 180 be amended by establishing a temporary exemption from the requirement of a tolerance for residues of *Bacillus thuringiensis* Cry1F protein and the genetic material necessary for its production in cotton.

New section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. * * *'' Additionally, section 408(b)(2)(D) of the FFDCA requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate

exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Data were submitted, reviewed, and determined acceptable for product characterization of Cry1F expressed in cotton (construct pAGM281). Adequate product characterization data also were submitted to demonstrate that the Cry1F protein expressed in or on cotton and Cry1F protein expressed in or on corn were the same protein (Ref. 2). The registrant requested that the data submitted for corn (construct PHI 8999) be used to support the acute oral toxicity, *in vitro* digestibility, and heat stability studies for Cry1F protein expressed in or on cotton based on the substantial similarity to Cry1F protein expressed in corn which is already exempt from the requirement of a tolerance (40 CFR 180.1217). EPA reviewed the product characterization data for both Cry1F expressed in or on cotton and corn and determined that the Cry1F proteins are the same. Therefore, EPA has concluded that the data which supported the tolerance exemption for Cry1F and its genetic material necessary for its production in corn can also support Cry1F and its genetic material necessary for its production in or on cotton.

Adequate data also was submitted to demonstrate that the Cry1F test material derived from microbial cultures was biochemically and, functionally similar to the protein produced by the plant-incorporated protectant expressed in cotton (Ref. 2). Production of microbially-produced protein was chosen in order to obtain sufficient material for testing and because a diet of only cotton seed would not provide an adequate diet for test animals. The FIFRA Scientific Advisory Panel has supported this approach. *See* Mammalian Toxicity Assessment Guidelines for Protein Plant Pesticides (SAP Report No. 2000–03B, September 28, 2000) at *http://www.epa.gov/scipoly/sap/2000/June/finbtmamtox.pdf*. Given that the Cry1F protein produced in corn and cotton have been determined to be the same protein, EPA has determined that the acute oral toxicity (MRID numbers 446911–01 and 450201–18), heat stability (MRID numbers 452748–01 and 449717–01), and *in vitro* digestibility (MRID number 447149–03) studies which support 40 CFR 180.1217 also support this exemption from the requirement of a tolerance. Although Cry1F expression level data were required for an environmental fate and effects assessment, residue chemistry data were not required for a human health effects assessment of the subject plant-incorporated protectant ingredients because of the lack of mammalian toxicity.

Data were submitted and reviewed which demonstrate the lack of mammalian toxicity at high levels of exposure to the pure Cry1F protein (Ref. 3). These data adequately demonstrate the safety of the Cry1F protein at levels well above maximum possible exposure levels that are reasonably anticipated in the cotton crops (Ref. 2). This is similar to the Agency position regarding toxicity and the requirement of residue data for the microbial *Bacillus thuringiensis* products from which this plant-incorporated protectant was derived. *See* 40 CFR 158.740(b)(2)(i). For microbial products, further toxicity testing and residue data are triggered by significant acute effects in studies such as the mouse oral toxicity study, to verify the observed effects and clarify the source of these effects (Tiers II and III). Refer to the *Bacillus thuringiensis* Plant-Incorporated Protectants Reassessment Biopesticide Regulatory Action Document (BRAD) dated October 15, 2001 (Ref. 3).

The acute oral toxicity data (MRID numbers 446911–01 and 450201–18) submitted support the prediction that the Cry1F protein is non-toxic to humans. Male and female mice (5 of each) were dosed with 15% (w/v) of the test substance, which consisted of *Bacillus thuringiensis* var. *aizawai* Cry1F protein at a net concentration of 11.4%. Two doses were administered approximately an hour apart to achieve the dose totaling 33.7 milliliter/kilogram (mL/kg) body weight. Outward clinical signs and body weights were observed and recorded throughout the 14–day study. Gross necropsies performed at the end of the study indicated no findings of toxicity. No mortality or clinical signs were noted during the study. A lethal dose $(LD)_{50}$ was estimated at greater than 5,050 mg/kg body weight of this microbially produced test material. The actual dose administered contained 576 mg Cry1F protein/kg body weight. At this dose, no LD_{50} was demonstrated as no toxicity was observed. Cry1F cotton seeds contain 0.0017 to 0.0034 mg of Cry1F/gram of cotton tissue which is a much lower level than the highest no observable effect level.

When proteins are toxic, they are known to act via acute mechanisms and at very low dose levels (Ref. 1). Therefore, since no effects were shown to be caused by the plant-incorporated protectant, even at relatively high dose levels, the Cry1F protein is not considered toxic. Further, amino acid sequence comparisons showed no similarity between Cry1F protein to known toxic proteins available in public protein data bases.

Since Cry1F is a protein, allergenic sensitivities were considered. Current scientific knowledge suggests that common food allergens tend to be resistant to degradation by heat, acid, and proteases may be glycosylated and present at high concentrations in the food (Ref. 3). Data were submitted and reviewed, and these data demonstrate that the Cry1F protein is rapidly degraded by gastric fluid *in vitro* and is non-glycosylated. In a solution of Cry1F:pepsin at a molar ratio of 1:100, complete degradation of Cry1F to amino acids and small peptides occurred in 5 minutes. A heat lability study demonstrated the loss of bioactivity of Cry1F protein to neonate tobacco budworm larvae after 30 minutes at 75 °C. Studies submitted to EPA using laboratory animals have not indicated any potential for allergic reactions to *Bacillus thuringiensis* or its components, including the delta-endotoxin of the crystal protein. Additionally, a comparison of amino acid sequences of known allergens uncovered no evidence of any homology with Cry1F, even at the level of eight contiguous amino acids residues. The potential for the Cry1F protein to be a food allergen is minimal (Ref. 2).

Regarding toxicity to the immune system, the acute oral toxicity data submitted support the prediction that the Cry1F proteins are non-toxic to humans. When proteins are toxic, they are known to act via acute mechanisms and at very low dose levels (Ref. 1). Therefore, since no effects were shown to be caused by the plant-incorporated protectant, even at relatively high dose levels, the Cry1F protein is not considered toxic.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of the FFDCA directs EPA to consider available information

concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

The Agency has considered the product characterization data showing expression levels of Cry1F protein in cotton seed exposure levels of consumers (and major identifiable subgroups of consumers) to the pesticide chemical residue and to other related substances. These considerations include dietary exposure under the tolerance exemption and all other tolerances or exemptions in effect for the plant-incorporated protectants' chemical residue, and exposure from non-occupational sources. Exposure via the skin or inhalation is not likely since the plant-incorporated protectant is contained within plant cells, which essentially eliminates these exposure routes or reduces these exposure routes to negligible. Oral exposure, at very low levels, may occur from ingestion of processed cottonseed oils and, potentially, drinking water. However, a lack of mammalian toxicity and the digestibility of the plant-incorporated protectants have been demonstrated. The use sites for the Cry1F protein are all agricultural for control of insects. Therefore, exposure via residential or lawn use to infants and children is not expected. Even if negligible exposure should occur, the Agency concludes that such exposure would present no risk due to the lack of toxicity demonstrated for the Cry1F protein. Refer to the *Bacillus thuringiensis* Reassessment BRAD dated October 15, 2001.

V. Cumulative Effects

Pursuant to FFDCA section 408(b)(2)(D)(v), EPA has considered available information on the cumulative effects of such residues and other substances that have a common mechanism of toxicity. These considerations included the cumulative effects on infants and children of such residues and other substances with a common mechanism of toxicity. Because there is no indication of mammalian toxicity to these plant-incorporated protectants, EPA concludes that there are no cumulative effects for the Cry1F protein.

VI. Determination of Safety for U.S. Population, Infants and Children

A. Toxicity and Allergenicity Conclusions

The product characterization data are acceptable for Cry1F protein expressed in cotton. The Agency was able to determine that the Cry1F protein expressed in cotton was the same protein as the Cry1F expressed in corn which is covered by an existing tolerance exemption (40 CFR 180.1217). Also the Cry1F protein produced by microbial culture was biochemically and functionally similar to the protein produced by the plant-incorporated protectant in cotton. Therefore, the Agency was able to bridge mammalian toxicity data from a previous submission for Cry1F protein expressed in corn to cover the mammalian toxicity studies required for Cry1F protein expressed in cotton. These studies are the acute oral toxicity (MRID numbers 446911–01 and 450201–18), heat stability, amino acid homology (MRID numbers 452749–01 and 449717–01) and *in vitro* digestibility (MRID number 447149–03) studies.

The data submitted and cited regarding potential health effects for the Cry1F protein include the characterization of the expressed Cry1F protein in corn, as well as the acute oral toxicity, heat stability, and *in vitro* digestibility of the proteins. The results of these studies were determined applicable to evaluate human risk and the validity, completeness, and reliability of the available data from the studies were considered.

The acute oral toxicity data submitted supports the prediction that the Cry1F protein would be non-toxic to humans. When proteins are toxic, they are known to act via acute mechanisms and at very low dose levels (Ref. 1). Since no effects were shown to be caused by Cry1F protein, even at relatively high dose levels (>5,050 mg test substance/kg body weight; 576 mg Cry1F/kg body weight), the Cry1F protein is not considered toxic. This is similar to the Agency position regarding toxicity and the requirement of residue data for the microbial *Bacillus thuringiensis* products from which this plant-incorporated protectant was derived. *See* 40 CFR 158.740(b)(2)(i). For microbial products, further toxicity testing and residue data are triggered by significant acute effects in studies such as the mouse oral toxicity study to verify the observed effects and clarify the source of these effects (Tiers II and III).

Although Cry1F expression level data were required for an environmental fate and effects assessment, residue chemistry data were not required for a human health effects assessment of the subject plant-incorporated protectant ingredients because of the lack of mammalian toxicity.

Both: available information concerning the dietary consumption patterns of consumers (and major identifiable subgroups of consumers including infants and children); and safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of food additives, are generally recognized as appropriate for the use of animal experimentation data. The lack of mammalian toxicity at high levels of exposure to the Cry1F protein demonstrates the safety of the product at levels well above possible maximum exposure levels anticipated in the crop. Refer to the *Bacillus thuringiensis* Reassessment BRAD dated October 15, 2001. Its genetic material necessary for the production of the plant-incorporated protectant active ingredients are the nucleic acids (DNA, RNA) which comprise genetic material encoding these proteins and their regulatory regions.

The genetic material (DNA, RNA) necessary for the production of Cry1F protein in cotton has been exempted under the blanket exemption for all nucleic acids (40 CFR 174.175).

B. Infants and Children Risk Conclusions

FFDCA section 408(b)(2)(C) provides that EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(B)(2)(C) also provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children.

In this instance, based on all the available information, the Agency concludes that there is a finding of no toxicity for the Cry1F protein and its genetic material necessary for its production in or on cotton. Thus, there are no threshold effects of concern and, as a result, the provision requiring an additional margin of safety does not apply. Further, the provisions of consumption patterns, special

susceptibility, and cumulative effects do not apply.

C. Overall Safety Conclusion

There is a reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to the Cry1F protein and its genetic material necessary for its production in or on cotton. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because, as discussed above, no toxicity to mammals has been observed for the plant-incorporated protectants.

VII. Other Considerations

A. Endocrine Disruptors

The pesticidal active ingredients are proteins, derived from sources that are not known to exert an influence on the endocrine system. Therefore, the Agency is not requiring information on the endocrine effects of these plant-protectants at this time.

B. Analytical Method

A method for extraction and direct enzyme linked immunosorbent assay analysis of Cry1F in cotton has been submitted (MRID number 458084–23). This method is adequate to support a temporary tolerance exemption.

C. Codex Maximum Residue Level

No Codex maximum residue levels exists for the plant-incorporated protectants *Bacillus thuringiensis* Cry1F protein and its genetic material necessary for its production in or on cotton.

VIII. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2003–0147 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before June 30, 2003.

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

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm. 104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

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

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP–2003–0147, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

IX. References

1. Sjoblad, Roy D., et al. ''Toxicological Considerations for Protein Components of Biological Pesticide Products,'' *Regulatory Toxicology and Pharmacology* 15L, 3-9 (1992).

2. U.S. EPA. Memorandum, S.R. Matten, Ph.D. to L. Cole. March 26, 2003.

3. U.S. EPA. *Bacillus thuringiensis* Plant-Incorporated Protectants Reassessment BRAD. October 15, 2001.

X. Statutory and Executive Order Reviews

This final rule establishes a temporary exemption from the requirement of a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104 –4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the temporary exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: April 11, 2003.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—AMENDED

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

Authority: 21 U.S.C. 321(q), 346(a) and 371.

■ 2. Section 180.1227 is added to subpart D to read as follows:

§ 180.1227 Bacillus thuringiensis Cry1F protein and its genetic material necessary for its production in or on cotton; temporary exemption from the requirement of a tolerance.

Bacillus thuringiensis Cry1F protein and its genetic material necessary for its production in cotton are exempt from the requirement of a tolerance when used as a plant-incorporated protectant in the food and feed commodity of cotton. This temporary tolerance exemption expires on May 1, 2004.

[FR Doc. 03–10663 Filed 4–29–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7490–3]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'' or ''the Act''), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (''EPA'' or ''the Agency'') in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule adds 7 new sites to the NPL; all to the General Superfund Section of the NPL.

EFFECTIVE DATE: The effective date for this amendment to the NCP shall be May 30, 2003.

ADDRESSES: For addresses for the Headquarters and Regional dockets, as well as further details on what these dockets contain, *see* section II, ''Availability of Information to the Public'' in the **SUPPLEMENTARY INFORMATION** portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Yolanda Singer, phone (703) 603–8835, State, Tribal and Site Identification Center; Office of Emergency and Remedial Response (mail code 5204G); U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

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I. Background

A. What Are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act''), in response to the dangers of uncontrolled releases of hazardous substances. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (''SARA''), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What Is the NCP?

To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, pollutants, or contaminants under CERCLA. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes ''criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action for the purpose of taking removal action.'' (''Removal'' actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases 42 U.S.C. 9601(23).)

C. What Is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended by SARA. Section 105(a)(8)(B) defines the NPL as a list of ''releases'' and the highest priority ''facilities'' and requires that the NPL be revised at least annually. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances. The NPL is only of limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Neither does placing a site on the NPL mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by EPA (the ''General Superfund

Section''), and one of sites that are owned or operated by other Federal agencies (the ''Federal Facilities Section''). With respect to sites in the Federal Facilities Section, these sites are generally being addressed by other Federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining whether the facility is placed on the NPL. EPA generally is not the lead agency at Federal Facilities Section sites, and its role at such sites is accordingly less extensive than at other sites.

D. How Are Sites Listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System (''HRS''), which EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure, and air. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL; (2) each State may designate a single site as its top priority to be listed on the NPL, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR300.425(c)(2) requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State (*see* 42 U.S.C. 9605(a)(8)(B)); (3) the third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed regardless of their HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on October 24, 2002 (67 FR 65315).

E. What Happens to Sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the ''Superfund'') only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (''Remedial actions'' are those ''consistent with permanent remedy, taken instead of or in addition to removal actions * * *.'' 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL ''does not imply that monies will be expended.'' EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

F. How Are Site Boundaries Defined?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so.

Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance release has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. As a legal matter, the site is not coextensive with that area, and the boundaries of the installation or plant are not the ''boundaries'' of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location to which that contamination has come to be located, or from which that contamination came.

In other words, while geographic terms are often used to designate the site (*e.g.*, the ''Jones Co. plant site'') in terms of the property owned by a particular party, the site properly understood is not limited to that property (*e.g.*, it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (*e.g.*, where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the ''site''). The ''site'' is thus neither equal to nor confined by the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. The precise nature and extent of the site are typically not known at the time of listing. Also, the site name is merely used to help identify the geographic location of the contamination. For example, the name ''Jones Co. plant site,'' does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the ''nature and extent of the problem presented by the release'' will be determined by a remedial investigation/feasibility study (RI/FS) as more information is developed on site contamination (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, this inquiry focuses on an evaluation of the threat posed; the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, supporting information can be submitted to the Agency at any time after a party receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How Are Sites Removed From the NPL?

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

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

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

As of April 1, 2003, the Agency has deleted 269 sites from the NPL.

H. Can Portions of Sites Be Deleted From the NPL as They Are Cleaned Up?

In November 1995, EPA initiated a new policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and available for productive use. As of April 1, 2003, EPA has deleted 37 portions of 33 sites.

I. What Is the Construction Completion List (CCL)?

EPA also has developed an NPL construction completion list (''CCL'') to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) EPA has determined that the response action should be limited to measures that do not involve construction (*e.g.*, institutional controls); or (3) the site qualifies for deletion from the NPL.

As of April 1, 2003 there are a total of 850 sites on the CCL. For the most up-to-date information on the CCL, *see* EPA's Internet site at *http://www.epa.gov/superfund.*

II. Availability of Information to the Public

A. Can I Review the Documents Relevant to This Final Rule?

Yes, documents relating to the evaluation and scoring of the sites in this final rule are contained in dockets located both at EPA Headquarters and in the Regional offices.

B. What Documents Are Available for Review at the Headquarters Docket?

The Headquarters docket for this rule contains, for each site, the HRS score sheets, the Documentation Record describing the information used to compute the score, pertinent information regarding statutory requirements or EPA listing policies that affect the site, and a list of documents referenced in the Documentation Record. The Headquarters docket also contains comments received, and the Agency's responses to those comments. The Agency's responses are contained in the ''Support Document for the Revised National Priorities List Final Rule—April 2003.''

C. What Documents Are Available for Review at the Regional Dockets?

The Regional dockets contain all the information in the Headquarters docket, plus the actual reference documents containing the data principally relied upon by EPA in calculating or evaluating the HRS score for the sites located in their Region. These reference documents are available only in the Regional dockets.

D. How Do I Access the Documents?

You may view the documents, by appointment only, after the publication of this document. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Please contact the Regional dockets for hours.

Following is the contact information for the EPA Headquarters: Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue; EPA West, Room B102, Washington, DC 20004, 202/566–0276.

The contact information for the Regional dockets is as follows:

Ellen Culhane, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records Center, Mailcode HSC, One Congress Street, Suite 1100, Boston, MA 02114–2023; 617/918–1225.

Dennis Munhall, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4343.

Dawn Shellenberger (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3PM52, Philadelphia, PA 19103; 215/814–5364.

James R. Wade, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street, SW., 9th floor, Atlanta, GA 30303; 404/562–8127.

Janet Pfundheller, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA, Records Center, Waste Management Division 7–J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/886–7570.

Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Mailcode 6SF–RA, Dallas, TX 75202–2733; 214/665–7436.

Michelle Quick, Region 7 (IA, KS, MO, NE), U.S. EPA, 901 North 5th Street, Kansas City, KS 66101; 913/551–7335.

David Williams, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 999 18th Street, Suite 500, Mailcode 8EPR–SA, Denver, CO 80202–2466; 303/312–6757.

Carolyn Douglas, Region 9 (AZ, CA, HI, NV, AS, GU), U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105; 415/972–3092.

Tara Martich, Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 6th Avenue, Mail Stop ECL–115, Seattle, WA 98101; 206/553–0039.

E. How Can I Obtain a Current List of NPL Sites?

You may obtain a current list of NPL sites via the Internet at *http://www.epa.gov/superfund/* (look under the Superfund sites category) or by contacting the Superfund Docket (*see* contact information above).

III. Contents of This Final Rule

A. Additions to the NPL

This final rule adds 7 sites to the NPL; all to the General Superfund Section of the NPL. Table 1 presents the 7 sites in the General Superfund Section. Sites in the tables are arranged alphabetically by State.

TABLE 1.—NATIONAL PRIORITIES LIST FINAL RULE, GENERAL SUPERFUND SECTION

State	Site name	City/county
FL	United Metals, Inc.	Marianna.
NC	Ward Transformer	Raleigh.
NE	Omaha Lead	Omaha.
NJ	Woodbrook Road Dump.	South Plainfield.
PR	Pesticide Warehouse III.	Manati.
TX	Gulfco Marine Maintenance.	Freeport.

TABLE 1.—NATIONAL PRIORITIES LIST FINAL RULE, GENERAL SUPERFUND SECTION—Continued

State	Site name	City/county
UT ..	Davenport and Flagstaff Smelters.	Sandy City.

Number of Sites Added to the General Superfund Section: 7.

B. Status of NPL

With the 7 new sites added to the NPL in today's final rule; the NPL now contains 1,237 final sites; 1,079 in the General Superfund Section and 158 in the Federal Facilities Section. With a separate rule (published elsewhere in today's **Federal Register**) proposing to add 13 new sites to the NPL, there are now 65 sites proposed and awaiting final agency action, 59 in the General Superfund Section and 6 in the Federal Facilities Section. Final and proposed sites now total 1,302. (These numbers reflect the status of sites as of April 1, 2003. Site deletions occurring after this date may affect these numbers at time of publication in the **Federal Register**.)

C. What Did EPA Do With the Public Comments It Received?

EPA reviewed all comments received on the sites in this rule. The Davenport and Flagstaff Smelters site was proposed on December 1, 2000 (65 FR 75215). The Woodbrook Road Dump site was proposed on September 13, 2001 (66 FR 47612). The Omaha Lead site was proposed on February 26, 2002 (67 FR 8836). The remaining sites were proposed on September 5, 2002 (67 FR 56794).

EPA responded to all relevant comments received on the following sites: Davenport and Flagstaff Smelters, Woodbrook Road Dump, and Omaha Lead. EPA's responses to site-specific public comments are addressed in the ''Support Document for the Revised National Priorities List Final Rule—April 2003.''

For the remaining sites, EPA received no comments or only comments supporting the listing of the sites to the NPL and therefore, EPA is placing them on the final NPL at this time.

IV. Executive Order 12866

A. What Is Executive Order 12866?

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create 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 the Executive Order.

B. Is This Final Rule Subject to Executive Order 12866 Review?

No. The listing of sites on the NPL does not impose any obligations on any entities. The listing does not set standards or a regulatory regime and imposes no liability or costs. Any liability under CERCLA exists irrespective of whether a site is listed. It has been determined that this action is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

V. Unfunded Mandates

A. What Is the Unfunded Mandates Reform Act (UMRA)?

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before EPA promulgates a rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

B. Does UMRA Apply to This Final Rule?

No, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments in the aggregate, or by the private sector in any one year. This rule will not impose any Federal intergovernmental mandate because it imposes no enforceable duty upon State, tribal or local governments. Listing a site on the NPL does not itself impose any costs. Listing does not mean that EPA necessarily will undertake remedial action. Nor does listing require any action by a private party or determine liability for response costs. Costs that arise out of site responses result from site-specific decisions regarding what actions to take, not directly from the act of listing a site on the NPL.

For the same reasons, EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act.

VI. Effect on Small Businesses

A. What Is the Regulatory Flexibility Act?

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small

organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

B. How Has EPA Complied With the Regulatory Flexibility Act?

This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet, and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of a hazardous substance depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking. Thus, this rule does not impose any requirements on any small entities. For the foregoing reasons, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

VII. Possible Changes to the Effective Date of the Rule

A. Has This Rule Been Submitted to Congress and the General Accounting Office?

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 has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A ''major rule'' cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

B. Could the Effective Date of This Final Rule Change?

Provisions of the Congressional Review Act (CRA) or section 305 of CERCLA may alter the effective date of this regulation.

Under the CRA, 5 U.S.C. 801(a), before a rule can take effect the Federal agency promulgating the rule must submit a report to each House of the Congress and to the Comptroller General. This report must contain a copy of the rule, a concise general statement relating to the rule (including whether it is a major rule), a copy of the cost-benefit analysis of the rule (if any), the agency's actions relevant to provisions of the Regulatory Flexibility Act (affecting small businesses) and the Unfunded Mandates Reform Act of 1995 (describing unfunded federal requirements imposed on state and local governments and the private sector), and any other relevant information or requirements and any relevant Executive Orders.

EPA has submitted a report under the CRA for this rule. The rule will take effect, as provided by law, within 30 days of publication of this document, since it is not a major rule. Section 804(2) defines a major rule as any rule that the Administrator of the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) finds has resulted in or is likely to result in: An annual effect on the economy of $100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. NPL listing is not a major rule because, as explained above, the listing, itself, imposes no monetary costs on any person. It establishes no enforceable duties, does not establish that EPA necessarily will undertake remedial action, nor does it require any action by any party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Section 801(a)(3) provides for a delay in the effective date of major rules after this report is submitted.

C. What Could Cause the Effective Date of This Rule to Change?

Under 5 U.S.C. 801(b)(1) a rule shall not take effect, or continue in effect, if Congress enacts (and the President signs) a joint resolution of disapproval, described under section 802.

Another statutory provision that may affect this rule is CERCLA section 305, which provides for a legislative veto of regulations promulgated under CERCLA. Although *INS* v. *Chadha,* 462 U.S. 919,103 S. Ct. 2764 (1983) and *Bd. of Regents of the University of Washington* v. *EPA,* 86 F.3d 1214,1222 (D.C. Cir. 1996) cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives.

If action by Congress under either the CRA or CERCLA section 305 calls the effective date of this regulation into question, EPA will publish a document of clarification in the **Federal Register**.

VIII. National Technology Transfer and Advancement Act

A. What Is the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

B. Does the National Technology Transfer and Advancement Act Apply to This Final Rule?

No. This rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

IX. Executive Order 12898

A. What is Executive Order 12898?

Under Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' as well as through EPA's April 1995, ''Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report,'' and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure

that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities, and all people live in clean and sustainable communities.

B. Does Executive Order 12898 Apply to this Final Rule?

No. While this rule revises the NPL, no action will result from this rule that will have disproportionately high and adverse human health and environmental effects on any segment of the population.

X. Executive Order 13045

A. What Is Executive Order 13045?

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

B. Does Executive Order 13045 Apply to This Final Rule?

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this section present a disproportionate risk to children.

XI. Paperwork Reduction Act

A. What Is the Paperwork Reduction Act?

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rules, are listed in 40 CFR part 9. The information collection requirements related to this action have already been approved by OMB pursuant to the PRA under OMB control number 2070–0012 (EPA ICR No. 574).

B. Does the Paperwork Reduction Act Apply to This Final Rule?

No. EPA has determined that the PRA does not apply because this rule does not contain any information collection requirements that require approval of the OMB.

XII. Executive Orders on Federalism

What Are The Executive Orders on Federalism and Are They Applicable to This Final Rule?

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

XIII. Executive Order 13084

What is Executive Order 13084 and Is It Applicable to this Final Rule?

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Under section 3(b) of Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. The addition of sites to the NPL will not impose any substantial direct compliance costs on tribes. While tribes may incur costs from participating in the investigations and cleanup decisions, those costs are not compliance costs. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this final rule.

XIV. Executive Order 13175

A. What is Executive Order 13175?

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal

government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

B. Does Executive Order 13175 Apply to This Final Rule?

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this final rule.

XV. Executive Order 13211

A. What is Executive Order 13211?

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), requires EPA to prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for certain actions identified as ''significant energy actions.'' Section 4(b) of Executive Order 13211 defines ''significant energy actions'' as ''any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) that is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.''

B. Is This Rule Subject to Executive Order 13211?

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866 (See discussion of Executive Order 12866 above.)

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: April 24, 2003.

Barry Breen,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

■ 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

■ 2. Table 1 of Appendix B to part 300 is amended by adding the following sites in alphabetical order to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1.—GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes [1]
*	*	*	*
FL	United Metals, Inc	Marianna.	
*	*	*	*
NC	Ward Transformer	Raleigh.	
*	*	*	*
NE	Omaha Lead	Omaha.	
*	*	*	*
NJ	Woodbrook Road Dump	South Plainfield.	
*	*	*	*
PR	Pesticide Warehouse III	Manati.	
*	*	*	*
TX	Gulfco Marine Maintenance	Freeport.	
*	*	*	*
UT	Davenport and Flagstaff Smelters	Sandy City.	
*	*	*	*

[1] A = Based on issuance of health advisory by Agency for Toxic Substance and Disease Registry (if scored, HRS score need not be ≤ 28.50). C = Sites on Construction Completion list. S = State top priority (included among the 100 top priority sites regardless of score). P = Sites with partial deletion(s).

* * * * *

[FR Doc. 03–10648 Filed 4–29–03; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 388

[Docket No. 2003–15030]

RIN 2133–AB49

Administrative Waivers of the Coastwise Trade Laws for Eligible Vessels

AGENCY: Maritime Administration, DOT.

ACTION: Interim final rule.

SUMMARY: The Maritime Administration (MARAD, or we, our or us) is publishing this interim final rule to implement the changes of the Maritime Transportation Security Act of 2002. This interim final rule implements regulations to waive the U.S.-build requirements of the Passenger Vessel Services Act and section 27 of the Merchant Marine Act, 1920, for eligible vessels to be documented with appropriate endorsement for employment in the coastwise trade as small passenger vessels or uninspected passenger vessels

authorized to carry no more than 12 passengers for hire. This interim final rule also brings the application procedure into compliance with the Government Paperwork Elimination Act, which requires that by October 21, 2003, the government must provide ''the option of electronic maintenance, submission, or disclosure of information when practicable as a substitute for paper.''

DATES: The effective date of this interim final rule is April 30, 2003. Comments must be recieved by May 30, 2003.

ADDRESSES: Comments should refer to docket number MARAD 2003–15030. Written comments may be submitted by mail to the Docket Clerk, U.S. Dot Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://smses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: You may call Michael Hokana, Office of Ports and Domestic Shipping, Maritime Administration, at (202) 366–0760, or you may write to him at the following address: MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Public Law 105–383, which authorized the Secretary of Transportation to grant waivers of certain requirements for the smallest of passenger vessels (those carrying 12 or fewer passengers) to operate in the coastwise trade, contained a sunset provision effective September 30, 2002. The Maritime Transportation Security Act of 2002, section 207(c), Pub. L. 107–295 (the Act), removed the sunset provision and added anti-fraud revocation authority.

Between January 2000 and September 2002, MARAD utilized regulations published at 46 CFR part 388 to accept applications from the public and provide public notice of the intent to issue waivers to foreign built vessels for use in the coastwise passenger trade (*see* **Federal Register** notice at 65 FR 6905) (February 11, 2001). However, the regulation also contains the sunset included in the enabling legislation. The application process required a $300 non-refundable fee, an ''adverse effect'' assessment on the U.S.-flag shipping and vessel building community, and a requirement that the vessel meet U.S. Coast Guard documentation standards. Waivers approved by MARAD, which set limits on vessel's geographic use and required that all significant changes be conducted with MARAD's prior approval, became a permanent part of the vessel's coastwise endorsement. As required by the original enabling legislation and the implementing regulation, MARAD granted no waivers after September 30, 2002.

The Act signed by President Bush on November 25, 2002, repealed the September 30, 2002, sunset provision contained in section 505 of the Coast Guard Authorization Act of 1998 (Pub. L. 105–383). The Act also substitutes a new section 503 which requires the Secretary to revoke ''a certificate or an endorsement issued under section 502, after notice and opportunity for a hearing, if the Secretary determines that the certificate or endorsement was obtained by fraud.'' This section changes and supersedes the circumstances under which a waiver can be revoked. This interim final rule implements these two legislative changes.

This interim final rule also makes several administrative changes designed to simplify the application process. Under the simplified process, applicants are encouraged to apply on line. The application will be available on the MARAD Web site at *http://www.marad.dot.gov* and will include the ability to charge the application fee to a major credit card.

Program Description: There are two agencies with responsibilities related to the coastwise trade laws. The Coast Guard, part of the Department of Transportation before moving to the Department of Homeland Security, issues the vessel documents and endorsements that authorize vessels to engage in the coastwise trade. However, the Secretary of Transportation has delegated to MARAD the authority to process applications for waivers of the coastwise laws and to grant such waivers if they do not adversely affect United States vessel builders or United States-built vessel coastwise trade businesses. We are outlining the procedures to be followed in processing applications for waivers, or revoking waivers previously granted. Upon grant of a waiver, MARAD will notify the applicant and the Coast Guard. Thereafter, you may register the vessel so waived with the Coast Guard under the Coast Guard's normal procedures, provided the vessel is otherwise eligible.

Vessels eligible for a waiver of the coastwise trade laws will be limited to foreign-built or foreign rebuilt small passenger vessels and uninspected passenger vessels as defined by section 2101 of title 46, United States Code. Vessels of unknown origin will be considered foreign built. Additionally, vessels requested for consideration must be greater than three (3) years old. We will not grant waivers in instances where such waiver activity will have an unduly harmful impact on U.S. shipyards or U.S.-flag ship operators. Specifically, and in order to meet the public comment provisions of title V, it is our intention to give notice of applications in the **Federal Register** and provide the appropriate reference to the DOT Docket where the application is published and comments may be submitted. After a period of time to evaluate comments and assess the impact that the proposed waivers will have on the U.S.-flag shipping and shipbuilding industry, we will issue a determination.

MARAD does not have the authority to waive citizenship requirements for vessel ownership and documentation. The Coast Guard will ascertain whether the shipowner is qualified as a citizen to register a vessel. In addition, the Coast Guard, not MARAD, will determine whether a particular vessel will be considered a small passenger vessel or an uninspected passenger vessel. However, we may refuse to process an application if the vessel is not the type eligible for a waiver. Prospective applicants for a coastwise trade law waiver may wish to consult with the Coast Guard prior to initiating the waiver application process with MARAD.

Under title V, section 503 previously contained authority to revoke coastwise endorsements under the limited circumstances where a foreign-built or foreign-rebuilt passenger vessel, that had been allowed into service, substantially changed that service. The Act amended section 503 to provide fraud in the application process as the basis to revoke an endorsement. MARAD's procedure for revocation of a waiver will not change significantly. Procedures will still include the publication of a notice in the **Federal Register** seeking public comments on the proposed revocation. A hearing may be provided prior to making determination. Secondly, if we determine that the endorsement was obtained by fraud we will issue a formal letter of waiver revocation with an appropriate grace period. This determination will be sent to the Coast

Guard for revocation of the vessel's coastwise endorsement.

MARAD's decisions to grant or deny a waiver and to revoke or not revoke a waiver will not be final until the time for review has expired. Applicants and persons who submitted comments in response to a **Federal Register** notice may petition the Maritime Administrator to review a waiver determination, or request the Maritime Administrator not to review a waiver determination. Relatively short time periods are provided for this review process.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This interim final rule is not significant under section 3(f) of Executive Order 12866, and as a consequence, OMB did not review the rule. This interim final rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 26, 1979). The costs and benefits associated with this rulemaking are considered to be so minimal that no further regulatory impact analysis is necessary. Vessels eligible for a waiver of the coastwise trade laws will be limited to foreign built or foreign re-built small passenger vessels and uninspected passenger vessels as defined by section 2101 of title 46, United States Code. Additionally, vessels requested for consideration must be greater than three years old. We will not grant waivers in instances where such waiver activity will have an unduly adverse effect on U.S. vessel builders or U.S. businesses that use U.S. flag vessels. Under title V, MARAD also has the authority to revoke coastwise endorsements under the limited circumstances where a foreign-built or foreign-rebuilt passenger vessel, previously allowed into service, is deemed to have obtained such endorsement through fraud.

We are publishing this rule as an interim final rule, pursuant to 5 U.S.C. 553 (b)(3)(B), rather than as a proposed rule, because notice and public procedure thereon are unnecessary. Part 388 was originally published following proper notice and comment procedures. The Act lifts the sunset provision in the statute, thereby extending the program indefinitely. This interim final rule likewise lifts the sunset provision that was contained in the regulation. The change in revocation criteria included in the interim final rule is mandated by legislation. The other change effected immediately by this interim final rule, the option of filing applications electronically, is mandated by the Government Paperwork Elimination Act.

Executive Order 13132

We analyzed this rulemaking in accordance with the principles and criteria contained in E.O. 13132 (''Federalism'') and have determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. The regulations herein have no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Therefore, MARAD did not consult with State and local officials because it was not necessary.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires MARAD to assess the impact that regulations will have on small entities. After analysis of this interim final rule, MARAD certifies that this interim final rule will not have a significant economic impact on a substantial number of small businesses. Although we expect many applicants for vessel waivers to be small businesses, we do not believe that the economic impact will be significant. This regulation allows MARAD to waive the U.S.-build and other requirements for eligible vessels and adds a small economic benefit to applicants. This regulation will only allow vessels to carry the statutory maximum of 12 passengers. As a consequence, MARAD estimates that a vessel owner who receives a waiver may earn a few hundred dollars per year for localized operations (geographic restrictions apply) such as whale watching and personalized fishing expeditions. Also, the economic impact of this rule is limited because it precludes vessel owners from participating in other economic activities such as carrying cargo and commercial fishing.

Environmental Assessment

This interim rule would not significantly affect the environment because the small number and small size of vessels admitted to U.S. registry under this waiver program would have little or no effect on the environment. Accordingly, an Environmental Impact Statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This interim final rule reactivates a requirement for the collection of information that was used before the sunset provision contained in the Coast Guard Authorization Act of 1998 ended the authority to grant waivers. The Office of Management and Budget (OMB) has reviewed and approved the information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). The OMB approval number is 2133–0529.

Unfunded Mandates Reform Act

This interim final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule.

Consultation and Coordination With Indian Tribal Governments

MARAD believes that regulations evolving from this interim final rule would have no significant or unique effect on the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments). Therefore, the funding and consultation requirements of this Executive Order would not apply.

Regulation Identifier Number (RIN)

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

List of Subjects in 46 CFR Part 388

Administrative practice and procedure, Maritime carriers, Passenger vessels, Reporting and recordkeeping requirements.

■ Accordingly, the Maritime Administration amends 46 CFR chapter II, subchapter J, by revising part 388 to read as follows:

PART 388—ADMINISTRATIVE WAIVERS OF THE COASTWISE TRADE LAWS

Sec.
388.1 Purpose.
388.2 Definitions.

388.3 Application and fee.
388.4 Criteria for grant of a waiver.
388.5 Criteria for revocation of a waiver.
388.6 Process.

Authority: 46 App. U.S.C. 1114(b); Pub. L. 105–383, 112 Stat. 3445 (46 U.S.C. 12106 note): 49 CFR 1.66.

§ 388.1 Purpose.

This part prescribes regulations implementing the provisions of Title V of Public Law 105–383 (112 Stat. 3445), which grants the Secretary authority to review and approve applications for waiver of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more, built or rebuilt outside the United States, and grants authority for revocation of those waivers.

§ 388.2 Definitions.

For the purposes of this Part:

(a) *Administrator* means the Maritime Administrator

(b) *Coastwise Trade Laws* include:

(1) The Coastwise Endorsement Provision of the Vessel Documentation Laws, (46 U.S.C. 12106);

(2) The Passenger Services Act, section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289); and

(3) The Jones Act, section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883).

(c) *Eligible vessel* means a vessel of five or more tons that is either a small passenger vessel or an uninspected passenger vessel that—

(1) Was not built in the United States and is at least 3 years of age; or

(2) If rebuilt, was rebuilt outside the United States at least 3 years before the certificate of documentation with appropriate endorsement if granted, would become effective.

(d) *MARAD* means the Maritime Administration, U.S. Department of Transportation.

(e) *Secretary* means the Secretary of Transportation.

(f) The terms, *small passenger vessel, uninspected passenger vessel* and *passenger for hire* have the meaning given such terms by section 2101 of title 46, United States Code.

(g) *Fraud* means the intentional misrepresentation of a material fact or facts.

§ 388.3 Application and fee.

(a) An owner of a vessel may choose either of two methods to apply for an administrative waiver of the coastwise trade laws of the United States for an eligible vessel to carry no more than twelve passengers for hire.

(1) The application form contained on MARAD's website at *http://www.marad.dot.gov* may be submitted electronically with credit card or Automated Clearinghouse (ACH) payment of the $300 application fee.

(2) Alternatively, applicants may send written applications to Small Vessel Waiver Applications, Office of Ports and Domestic Shipping, MAR–830, Room 7201, 400 7th St., SW., Washington, DC 20590. Written applications need not be in any particular format, but must be signed, be accompanied by a check for $300 made out to the order of ''Maritime Administration'', and contain the following information:

(i) Name of vessel and owner for which waiver is requested and the vessel's official number.

(ii) Size, capacity and tonnage of vessel (state whether tonnage is measured pursuant to 46 U.S.C. 14502, or otherwise, and if otherwise, how measured).

(iii) Intended use for vessel, including geographic region of intended operation and trade.

(iv) Date and place of construction and (if applicable) rebuilding. (If applicant is unable to document the origin of the vessel, foreign construction will be assumed).

(v) Name, address, and telephone number of the vessel owner.

(vi) A statement on the impact this waiver will have on other commercial passenger vessel operators, including a statement describing the operations of existing operators.

(vii) A statement on the impact this waiver will have on U.S. shipyards.

(viii) A statement that the applicant represents that the foregoing information is true to the best of the applicant's knowledge.

(b) MARAD may ask additional questions of the applicant as part of the application review.

§ 388.4 Criteria for grant of a waiver.

(a) *General criteria.* (1) A waiver of the foreign build and/or foreign rebuild prohibition in the coastwise trade laws will be granted for an eligible vessel only if we determine that the employment of the vessel in the coastwise trade will not unduly adversely affect—

(i) United States vessel builders; or

(ii) The coastwise trade business of any person who employs vessels built in the United States in that business.

(2) The determination of ''unduly adverse affect'' on a coastwise operator or a U.S. vessel builder may not be limited to operators or builders of vessels carrying 12 or fewer passengers.

(3) We may evaluate the expected impact of the proposed waiver on the basis of the information received from all sources, including public comment, internal investigation and analysis, and any other sources of information deemed appropriate.

(b) *Impact on U.S. vessel builders.* We may use the following criteria to determine the effect on U.S. vessel builders: Whether a potentially impacted U.S. vessel builder has a history of construction of similar vessels, or can demonstrate the capability and capacity and the fact it has taken definite steps to offer to build a similar vessel, for use in the same geographic region of the United States, as the proposed vessel of the applicant.

(c) *Impact on coastwise trade business.* We may use the following criteria to determine the effect on existing operators of U.S.-built vessels in coastwise trade:

(1) Whether the proposed vessel of the applicant and a vessel of an existing operator (or the vessel of an operator that can demonstrate it has taken definite steps to begin operation) would provide similar commercial service and would operate in the same geographic area.

(2) The number of similar vessels operating or proposed to operate in the same market with the same or similar itinerary, relative to the size of the market. For example, a single vessel may have a small impact on a large market.

(d) *Advance notice and approval needed for changes.* When we approve a waiver application, we will notify the applicant that no substantial change in the employment of the vessel in the coastwise trade may be made without prior notice to MARAD. In general a substantial change in operating area will require a new waiver application.

§ 388.5 Criteria for revocation of a waiver.

We may revoke a waiver previously granted under this Part if we determine, after notice and opportunity for a hearing, that fraud was involved in any part of the waiver application.

§ 388.6 Process.

(a) *Initial process.* (1) We will review each application for completeness as received. We will notify the applicant if additional information is necessary or if the application does not meet the initial eligibility requirements for waiver. All applications will be available for public inspection electronically in the Department of Transportation Docket at *http://dot.dms.gov.*

(2) Applications being processed on the merits will be noticed in the **Federal Register**. Interested parties will be given an opportunity to comment on whether introduction of any proposed vessel

would adversely affect them. In the absence of duly filed objections to an application, and in the absence of unduly adverse impact on vessel builders or businesses employing U.S.-built vessels otherwise discovered by us, we will conclude that there will be no adverse effect. If an objection to an application is received, additional information may be sought from the objector. The applicant will be given a sufficient amount of time to respond. The Director, Office of Ports and Domestic Shipping, will then either make a decision based on the written submissions and all available information or may as a matter of discretion, hold a hearing on the application and make a decision based on the hearing record. The decision will be communicated to the applicant, commenters and the United States Coast Guard in writing and placed in the docket. If MARAD grants a waiver, the applicant must thereafter contact the Coast Guard to obtain the necessary documentation for domestic operation. MARAD's waiver does not satisfy other requirements of the Coast Guard for documentation. The waiver, if approved, will be assigned to the vessel.

(b) *Revocation.* We may, upon the request of a U.S. builder or a coastwise trade business of a person who employs U.S. built vessels or upon our own initiative propose to revoke a waiver granted under this part, on the basis that the waiver was obtained through fraud. The grantee of the waiver in question will be notified directly by mail, and a notice will be published in the **Federal Register**. The original docket of the application will be reopened. We may request additional information from the applicant granted the waiver or from any respondent to the notice. The Director, Office of Ports and Domestic Shipping, will then either make a decision based on the written submissions and all available information or, as a matter of discretion hold a hearing on the proposed revocation and make a decision based on the hearing record. The decision will be communicated in writing to: the applicant granted the waiver, the requestor (if any), each respondent to the proposed revocation notice, the Coast Guard; and placed in the docket. If MARAD revokes a waiver, the Coast Guard, automatically and without further proceedings, shall revoke the vessel's coastwise endorsement.

(c) *Review of determinations.* (1) The decisions by the Director, Office of Ports and Domestic Shipping, to grant a waiver, deny a waiver, or revoke a waiver will not be final until time for discretionary review by the Administrator has expired. Each decision to grant, deny, or revoke a waiver will be made in writing and a copy of the written decision will be provided to each applicant and other parties to the decision. Applicants, persons who requested revocation of a waiver, and persons who submitted comments in response to a **Federal Register** notice may petition the Administrator to review a decision by the Director, Office of Ports and Domestic Shipping to grant a waiver, deny a waiver, or revoke a waiver within five (5) business days after such decision is filed in the docket. Each petition for review should state the petitioner's standing and the reasons review is being sought, clearly pointing out alleged errors of fact or misapplied points of law. Within five (5) business days of submission of a petition for review, the applicant, and other persons with standing, may request the Administrator not review a waiver, waiver denial or waiver revocation decision.

(2) Such petitions and responses must either be sent by facsimile to the Secretary, Maritime Administration, at (202) 366–9206 or filed electronically in the appropriate DOT docket at *http://dms.dot.gov.* The Administrator will decide whether to review within five (5) business days following the last day for submission of a request that the Administrator not take review. If the Administrator takes review, the decision by the Director, Office of Ports and Domestic Shipping, is stayed until final disposition. In the event the Administrator decides to take review, a decision will be made based on the written submissions and all available information. As a matter of discretion, the Administrator or designated representative may hold a hearing on the proposed action and make a decision based on the hearing record. The decision will be communicated in writing to the interested parties and the Coast Guard. In the review process, the decision of the Maritime Administrator is the final disposition. In the absence of any petition for review, the determination by the Director, Office of Ports and Domestic Shipping becomes final on the sixth business day after the decision. The Secretary, MARAD, may extend any of the time limits, but only for good cause shown.

Dated: April 24, 2003.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary.

[FR Doc. 03–10578 Filed 4–29–03; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF DEFENSE

48 CFR Parts 202 and 245 and Appendix G to Chapter 2

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement to update organizational titles and activity names and addresses.

EFFECTIVE DATE: April 30, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0311; facsimile (703) 602–0350.

List of Subjects in 48 CFR Parts 202 and 245

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

■ Therefore, 48 CFR Parts 202 and 245 and Appendix G to Chapter 2 are amended as follows:

■ 1. The authority citation for 48 CFR Parts 202 and 245 and Appendix G to subchapter I continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 202—DEFINITIONS OF WORDS AND TERMS

202.101 Definitions.

■ 2. Section 202.101 is amended in the definition of ''Senior procurement executive'' by removing ''Department of the Army—Assistant Secretary of the Army (Research, Development and Acquisition)'' and adding in its place ''Department of the Army—Assistant Secretary of the Army (Acquisition, Logistics and Technology)''.

PART 245—GOVERNMENT PROPERTY

245.407 [Amended]

■ 3. Section 245.407 is amended in paragraph (a)(i)(A) by removing ''(RD&A)'' and adding in its place ''(AL&T)''.

Appendix G to Chapter 2—Activity Nunbers

■ 4. Appendix G to Chapter 2 is amended in Part 3 by adding entry ''N65540'' to read as follows:

PART 3—NAVY ACTIVITY ADDRESS NUMBERS

* * * * *

N65540, EHP–S Commanding Officer, Ship Systems Engineering Station, Naval Surface Warfare Center, Carderock Division, Philadelphia Naval Business Center, 5001 South Broad Street, Philadelphia, PA 19112–1403.

* * * * *

■ 5. Appendix G to Chapter 2 is amended by revising Part 5 to read as follows:

PART 5—AIR FORCE ACTIVITY ADDRESS NUMBERS

F01600, 5A 42 CONS/CC, 50 Lemay Plaza South, Building 804, Maxwell AFB, AL 36112–6334
F01620, 6K SSG/PK, 3490 East Moore Drive, Suite 270, MAFB-Gunter Annex, AL 36114
F02601, 5C 355 CONS/CC, 3180 South Craycroft Road, Davis Monthan AFB, AZ 85707–3522
F02604, 5D 56 CONS/CC, 14100 West Eagle Street, Luke AFB, AZ 85309–1217
F03602, 5F 314 CONS/CC, 642 Thomas Avenue, Little Rock AFB, AR 72099–5119
F04605, 5H 452 LG/LGC, 1940 Graeber Street, Building 449, March ARB, CA 92518–1650
F04606, SM SM–ALC/PK, 3237 Peacekeeper Way, Suite 17, McClellan AFB, CA 95652–1060
F04611, QQ AFFTC R7D Contracts (C), Building 2800, 5 South Wolfe Avenue, Edwards AFB, CA 93524–1185
F04626, 5M 60 CONS/LGC, 350 Hangar Avenue, Building 549, Travis AFB, CA 94535–2632
F04666, 5N 9 CONS/CC, 6500 B Street, Suite 101, Beale AFB, CA 95903–1712
F04684, QW 30 CONS/LGC, Building 7015, Section 2C, Suite 2, 806 13th Street, Vandenberg AFB, CA 93437–5266
F04689, RN 750 LSS/LGC, 1080 Lockheed Way, Box 039, Onizuka AFB, CA 94089–1234
F04693, MG 61 CONS (SMC/PKO), 2420 Vela Way, Suite 1467, El Segundo, CA 90245–4683
F04699, Q5 SM–ALC/PK, 3227 Peacekeeper Way, Suite 17, McClellan AFB, CA 95652–1060
F04700, Q2 AFFTC/PKA, 5 South Wolfe Avenue, Building 2800, Edwards AFB, CA 93524–1185
F04701, TB SMC/PK, 2420 Vela Way, Suite 1462, El Segundo, CA 90245–4683
F05603, 5B HQ AFSPC/LGC, 1520 East Willamette Avenue, Room 106, Colorado Springs, CO 80914–4554
F05604, SX 21 CONS/LGC, 700 Suffolk Street, Peterson AFB, CO 80914–1200
F05611, 5Q USAFA/LGC, 8110 Industrial Drive, USAFA, CO 80840
F07603, 5R 436 CONS/LGC, 639 Atlantic Street, Suite 243, Dover AFB, DE 19902–5639
F08602, 5S 6 CONS/CC, 2606 Brown Pelican Avenue, MacDill AFB, FL 33621–5000
F08620, 5T 16 CONS/LGC, PO Box 9190, 350 Tully Street, Hurlburt Field, FL 32544–9190
F08630, RH AFRL/MNK, 101 West Eglin Boulevard, Building 13, Suite 337, Eglin AFB, FL 32542–6810
F08635, RH AAC/PK, 205 West D Avenue, Building 350, Suite 433, Eglin AFB, FL 32542–6864
F08637, 5V 325 CONS/CC, 501 Illinois Avenue, Suite 5, Tyndall AFB, FL 32403–5526
F08650, TJ 45 CONS/LGC, 1201 Edward H. White II Street, MS7200, Patrick AFB, FL 32925–3227
F08651, Q3 AAC/PKO, 205 West D Avenue, Suite 541, Eglin AFB, FL 32542–6862
F09603, RJ, RR WR–ALC/PK, Building 300, 215 Byron Street, Robins AFB, GA 31098–1611
F09604, RU LR Directorate/PK, 750 3rd Street, Building 350, Robins AFB, GA 31098–2122
F09607, 5W 347 CONS/CC, 4380B Alabama Road, Moody AFB, GA 31699–1793
F09609, 5X 94 LG/LGC, 1538 Atlantic Avenue, Suite 141, Dobbins AB, GA 30069–5011
F09634, 5Y HQ AFRC/LGC, 255 Richard Ray Boulevard, Robins AFB, GA 31098–1637
F09650, Q6 WR–ALC/PKO, 235 Byron Street, Robins AFB, GA 31098–1611
F10603, 5Z 366 CONS/CC, 366 Gunfighter Avenue, Suite 498, Mountain Home AFB, ID 83648–5296
F11623, 6C 375 CONS/LGC, 102 East Martin Street, Suite 216, Scott AFB, IL 62225–5015
F11626, 6S HQ AMC/DOY, 402 Scott Drive, Unit 3A1, Scott AFB, IL 62225–5302
F14614, X4 22 CONS/LGC, 53147 Kansas Street, Suite 102, McConnell AFB, KS 67221–3606
F16602, 6G 2 CONS/CC, 841 Fairchild Avenue, Barksdale AFB, LA 71110–2271
F19617, R5 439 CONF/LGC, 250 Airlift Drive, Westover ARB, MA 01022–1536
F19628, RS ESC/PK, 104 Barksdale Street, Hanscom AFB, MA 01731–1806
F19650, SH ESC/PKO, Building 1520, 104 Barksdale Street, Hanscom AFB, MA 01731–1806
F21611, 6N 934 CONF/LGC, 760 Military Highway, Minneapolis-St. Paul ARS, Minneapolis, MN 55450–2100
F22600, RC 81 CONS/CC, 200 Fifth Street, Room 104, Keesler AFB, MS 39534–2102
F22608, 6Q 14 CONS/CC, 555 Seventh Street, Suite 113, Columbus AFB, MS 39701–1006
F23606, 6R 509 CONS/CC, 850 Arnold Avenue, Suite 2, Whiteman AFB, MO 65305–5054
F24604, 6T 341 CONS/LGC, 7015 Goddard Drive, Building 145, Malmstrom AFB, MT 59402–6863
F25600, 6U 55 CONS/CC, 101 Washington Square, Offutt AFB, NE 68113–2107
F26600, S4 99 CONS/CC, 5865 Swabb Boulevard, Nellis AFB, NV 89191–7063
F28609, 6V 305 CONS/LGC, 3563 Lancaster Avenue, McGuire AFB, NJ 08641–1712
F28620, S8 OL–A, 65 CONS, PO Box 837, McGuire AFB, NJ 08641
F29601, RW Det 8, AFRL/PK, 2251 Maxwell Avenue SE, Kirtland AFB, NM 87117–5773
F29605, 6W 27 CONS/CC, 100 North Torch Boulevard, Cannon AFB, NM 88103–5131
F29650, R3 377 CONS/LGC, 2000 Wyoming Boulevard SE, Kirtland AFB, NM 87117–5773
F29651, 6X 49 CONS/CC, 1210 Fortyniner Avenue, Holloman AFB, NM 88330–5010
F30602, RX AFRL/IFK, 26 Electronic Parkway, Rome, NY 13441–4514
F30617, 6Y 914 AW/LGC, 2720 Kirkbridge Drive, Niagara Falls IAP–ARS, NY 14304–5001
F31601, BU 43 CONS/CC, 1443 Reilly Road, Suite C, Pope AFB, NC 28308–2896
F31610, BW 4 CONS/CC, 1695 Wright Brothers Avenue, Seymour Johnson AFB, NC 27531–2459
F32604, BX 5 CONS/CC, 211 Missile Avenue, Minot AFB, ND 58705–5027
F32605, BY 319 CONS/CC, 575 6th Avenue, Grand Forks AFB, ND 58205–6436
F33600, RZ ASC/PKW, 1940 Allbrook Drive, Suite 3, Building 1, Wright Patterson AFB, OH 45433–5309
F33601, Q7 88 ABW/PKO, 1940 Allbrook Drive, Suite 3, Building 1, Wright Patterson AFB, OH 45433–5309
F33615, SG DET 1 AFRL/PK, Building 167, 2310 8th Street, Wright Patterson AFB, OH 45433–7801
F33630, C1 910 LG/LGC, 3876 King Graves Road, Youngstown ARB, OH 44473–5925
F33657, SC ASC/PK, Building 14, Room 107, 1865 Fourth Street, Wright Patterson AFB, OH 45433–7120
F33660, TA AFMETCAL Det 1/MLK, 813 Irving Wick Drive West, Building 2, Heath, OH 43056–6116
F34600, C2 71 FTW/CVC, 246 Brown Parkway, Suite 228, Vance AFB, OK 73705–5037
F34601, SD OC–ALC/PK, 3001 Staff Drive, Suite 2AF75A, Tinker AFB, OK 73145–3020
F34608, TF Engineering Installation Center, 4064 Hilltop Road, Suite 102, Tinker AFB, OK 73145–2713
F34612, C3 97 CONS/CC, 205 South 6th Street, Building 318, Altus AFB, OK 73523–5147
F34650, Q9 OC–ALC/PKO, Building 3, Suite 1, 7858 Fifth Street, Tinker AFB, OK 73145–9106
F36629, C7 911 AW/LGC, 2375 Defense Avenue, Pittsburgh ARS, PA 15108–4495
F36700, C8 913 LG/LGC, 1051 Fairchild Street, Willow Grove ARS, PA 19090–5203
F38601, C9 20 CONS/CC, 305 Blue Jay Street, Shaw AFB, SC 29152–5004
F38604, T3 USCENTAF, 524 Shaw Drive, Shaw AFB, SC 29152–5029
F38610, CR 437 CONS/LGC, 102 Long Street, Charleston AFB, SC 29404–4829
F39601, CT 28 CONS/LGC, 1000 Ellsworth Street, Suite 1200, Ellsworth AFB, SD 57706–4910
F40600, Q4 AED(C)/PK, 100 Kindel Drive, Suite A335, Arnold AFB, TN 37389–1335
F40650, D1 AEDC/PKP, 100 Kindel Drive, Building 100, Suite 1332, Arnold AFB, TN 37389–1332
F41608, SA SA–ALC/PM, 485 Quentin Roosevelt Road, Suite 12, Kelly AFB, TX 78241–6419
F41612, D4 82 CONS/CC, 136 K Avenue, Suite 2, Sheppard AFB, TX 76311–2739

F41614, E2 17 CONS/CC, 210 Scherz Boulevard, Goodfellow AFB, TX 76908–4705
F41622, QY 311 HSW/PKO, 8150 Aeromedical Road, Brooks AFB, TX 78235–5123
F41624, TG 311 HSW/PKRHSC/PK, 8150 Aeromedical Road, Brooks AFB, TX 78235–5123
F41636, ZV 37 CONS/CC, 1655 Selfridge Avenue, Lackland AFB, TX 78236–5253
F41650, YA SA–ALC/PMK, Building 1598, 1288 Growden Road, Kelly AFB, TX 78251–5318
F41652, E5 7 CONS/CC, 381 3rd Street, Dyess AFB, TX 79607–1581
F41685, E6 47 CONS/CC, 171 Alabama Avenue, Laughlin AFB, TX 78840–5102
F41689, SK AETC CONS/CC, 550 D Street, Suite 07, Randolph AFB, TX 78150–4434
F41691, Y0 12 CONS/CC, 395 B Street West, Suite 02, Randolph AFB, TX 78150–4525
F42600, QP Ogden ALC/PK, 6038 Aspen Avenue, Building 1289, Hill AFB, UT 84056–5805
F42610, TE Ogden ALC/LMK, 6038 Aspen Avenue, Building 1289 SE, Hill AFB, UT 84056–5805
F42620, TG Ogden ALC/LFKAC, 6072 Fir Avenue, Building 1233, Hill AFB, UT 84056–5820
F42630, XP Ogden ALC/LIK, 6050 Gum Lane, Building 1215, Hill AFB, UT 84056–5225
F42650, R2 Ogden ALC/PKO, 6038 Aspen Avenue, Building 1289 NE, Hill AFB, UT 84056–5805
F44600, F3 1 CONS/CC, 74 Nealy Avenue, Suite 100, Langley AFB, VA 23665–2088
F44650, Q1 ACC CONS, 130 Douglas Street, Suite 210, Langley AFB, VA 23665–2791
F45603, F5 62 CONS/LGC, 100 Main Street, Suite 1049, McChord AFB, WA 98438–1109
F45613, F8 92 CONS/LGC, 110 West Ent Street, Suite 200, Fairchild AFB, WA 99011–9403
F47606, G7 440 AW/LGC, 300 East College Avenue, General Mitchell ARS, WI 53207–6299
F48608, G9 90 CONS/LGC, 7505 Marne Loop, F.E. Warren AFB, WY 82005–2860
F49620, SE AFOSR/PK, 4015 Wilson Boulevard, Room 713, Arlington, VA 22203–1954
F49642, LA 11 CONS/LGC, 500 Duncan Avenue, Room 250, Bolling AFB, DC 20332–0305
F61040, M1 65 CONS/LGC, Lajes Field (Azores), APO AE 9720
F61101, T1 21 CONS/DET 1, PSC 73, APO AE 09716–5000
F61211, N9 31 CONS/LGC, Unit 6102, Box 140, Aviano AB, APO AE 09601–2140
F61214, U9 USAFE Contracting Office, APO AE 9240
F61354, W8 425 ABS/LGC, Unit 6870, Box 85, Izmir AB, APO AE 09821–7085
F61358, W9 39 CONS/LGC, Unit 1045, Box 280, Incirlik AB, APO AE 09824–0285
F61503, UC 435 AW/LGC, Unit 7420, Box 115, Rhein Main AB, APO AE 09097–0115
F61517, UF 52 CONS/LGC, Unit 3910, Building 2001, Spangdahlem AB, APO AE 09126–3910
F61521, UH USAFE CONS/LGC, Unit 3115, Kaiserslautern AB, APO AE 09094–3115
F61708, UK 422 ABS/LGC, Croughton AB, APO AE 09194
F61730, UQ 423 ABS/LGC, PSC 47, Unit 5720, RAF Alconbury, APO AE 09238
F61775, UV 48 CONS/LGC, Unit 5070, Box 270, RAF Feltwell, APO AE 09179
F61815, UW 496 ABS/LGC, Unit 6585, Moron AB, APO AE 09643–6585
F62032, 4D USMTM, Unit 61300, Box 2, Saudi Arabia, APO AE 09803–1300
F62321, RA 18 CONS/LGC, Unit 5199, Kadena AB, APO AP 96368–5199
F62509, QZ 35 CONS, Unit 5201, Misawa AB, APO AP 96319–5201
F62562, SW 374 CONS/LGC, Unit 5228, Yokota AB, APO AP 96328–5228
F64133, S9 36 CONS/CC, Unit 14040, Andersen AFB, APO AP 96543–4040
F64605, TN 15 CONS/LGC, 90 G Street, Hickam AFB, HI 96853–5230
F64620, SZ CINCPACAF/LGC, 90 G Street, Hickam AFB, HI 96853–5230
F65501, WF 3 CONS/CC, 10480 22nd Street, Elmendorf AFB, AK 99506–2500
F65503, WH 354 CONS/LGC, 3112 Broadway Avenue, Unit 5b, Eielson AFB, AK 99702–1850
F66501, R7 24 CONS/CC, Unit 0550, Howard AFB, APO AA 34001–5000
FA0021, 5T HQ AFSOC/LGCQ, 100 Bartley Street, Hurlburt Field, FL 32544–5434
FA2543, 5G 460 CONS, 320 North Beaver Creek Street, Buckley AFB, CO 80011–9511
FA2550, 5P 50 CONS, 300 O'Malley Avenue, Suite 49, Schreiver AFB, CO 80912–3049
FA4416, 5J 89 CONS/LGC, 1419 Menoher Drive, Andrews AFB, MD 20762–6500
FA4452, RL AMC CONF/LGCF, 507 Symington Drive, Room W202, Scott AFB, IL 62225–5015
FA5689, N1 426 ABS/LGC, N–4097 Sola, APO AE 09706–6675
FA6648, 5U 482 LSS/LGC, 29050 Coral Sea Boulevard, Box 50, Homestead ARS, FL 33039–1299
FA6675, D5 301 CONF/LGC, 1710 Burke Street, Suite 100, NAS Fort Worth JRB, TX 76127–6200
FA7046, 6B HQ AFOTEC/RMC, 8500 Gibson Boulevard SE, Kirtland AFB, NM 87117–5558
FA8623, 6E ASC/ENVK, Building 8, Room 201, 1801 10th Street, Wright Patterson AFB, OH 45433–7626
FA8655 Development—UK, PSC 802, Box 14, FPO AE 9499
FA8770, 6H MSG/PK, 4375 Chidlaw Road, Room C022, Wright Patterson AFB, OH 45433–5006

[FR Doc. 03–10473 Filed 4–29–03; 8:45 am]

BILLING CODE 5001–08–P

Proposed Rules

Federal Register
Vol. 68, No. 83
Wednesday, April 30, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. FAA–2003–14825; Notice No. 03–06]

RIN 2120–AH90

Standard Airworthiness Certification of New Aircraft; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance notice of proposed rulemaking; correction.

SUMMARY: The FAA is correcting the preamble to an advance notice of proposed rulemaking published in the **Federal Register** of April 3, 2003 (68 FR 16217), regarding standard airworthiness certification of new aircraft. The correction adds a **Federal Register** reference and clarifies how the FAA determines that an individual aircraft satisfies all the airworthiness standards identified by a type certificate.

FOR FURTHER INFORMATION CONTACT: Dan Hayworth, Production and Airworthiness Division, AIR–200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8449.

Correction

In FR Doc. 03–8124, published on April 3, 2003, make the following corrections:

1. On page 16218, in the first column, third paragraph, add ''See 32 FR 14926, Oct. 28, 1967'' at the end of the paragraph.

2. On page 16218, in the second column, correct the last sentence of the second paragraph to read, ''This evaluation determines that the individual aircraft satisfies all the airworthiness standards identified by the type certificate.''

Issued in Washington, DC, on April 23, 2003.

Donald P. Byrne,

Assistant Chief Counsel, Regulations Division.

[FR Doc. 03–10580 Filed 4–29–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AI88

Subsistence Management Regulations for Public Lands in Alaska

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

ACTION: Withdrawal of proposed rule.

SUMMARY: We, the U.S. Forest Service and U.S. Fish and Wildlife Service, are withdrawing a proposed rule that would have made two minor changes to the regulations governing subsistence use of wildlife in Alaska. Because we received no adverse comments on a direct final rule of the same subject and that direct final rule is now effective, we are withdrawing the related proposed rule.

DATES: The proposed rule is withdrawn effective April 21, 2003.

FOR FURTHER INFORMATION CONTACT: For Forest Service questions, contact Ken Thompson, Regional Subsistence Program Manager, USDA–FS Alaska Region, at (907) 786–3592. For Fish and Wildlife Service questions, contact Thomas H. Boyd at (907) 786–3888.

SUPPLEMENTARY INFORMATION:

Background

The regulations at 36 CFR part 242 and 50 CFR part 100 (referred to below as ''the regulations''), authorized by Title VIII of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101–3126), implement the Federal Subsistence Management Program on public lands in Alaska. The Department of Agriculture's U.S. Forest Service and the Department of the Interior's U.S. Fish and Wildlife Service (referred to below as ''the Departments'') jointly administer the regulations, which are identical in 36 CFR part 242 and 50 CFR part 100.

On May 7, 2002, the Departments published in the **Federal Register** a final rule that made changes to the regulations (67 FR 30559). On February 18, 2003, the Departments published a direct final rule (68 FR 7703) that addressed two issues that arose after publication of the May 7, 2002, final rule: We clarified how old a person must be to receive a Federal Subsistence Registration Permit or Federal Designated Harvester Permit and removed a requirement that Regional Councils must have an odd number of members. These changes clarified language that had been unclear and brought the regulations into accord with current policies. We published these changes as a direct final rule because we believed these changes to be noncontroversial and anticipated receiving no adverse public comment on them. However, to prepare for the possibility of receiving adverse comments on the direct final rule, we simultaneously published a proposed rule for public comment in the February 18, 2003, **Federal Register** (68 FR 7734) that proposed the same two changes to the regulations.

We did not receive any comments on the direct final rule or the proposed rule during the public comment periods provided. Therefore, the direct final rule became effective April 21, 2003, as specified in that rule, and we are withdrawing the associated proposed rule.

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

Dated: April 15, 2003.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

Dated: April 15, 2003.

Kenneth E. Thompson,

Subsistence Program Manager, USDA—Forest Service.

[FR Doc. 03–10634 Filed 4–29–03; 8:45 am]

BILLING CODE 3410–11–P; 4310–55–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

RIN 0651–AB60

Revision of Patent Fees for Fiscal Year 2004

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Proposed rule.

SUMMARY: The United States Patent and Trademark Office (referred to as ''we'', ''us'', or ''our'' in this notice) is proposing to adjust certain patent fee amounts to reflect fluctuations in the Consumer Price Index (CPI). Also, we are proposing to adjust, by a corresponding amount, a few patent fees that track the affected fees. The Director is authorized to adjust these fees annually by the CPI to recover the higher costs associated with doing business.

Legislation has also been introduced in the Congress that would alter our fees. If enacted, this legislation would supersede the fees identified in this proposed rule.

DATES: Comments must be submitted on or before May 30, 2003.

ADDRESSES: Comments may be submitted by e-mail addressed to matthew.lee@uspto.gov. Comments may also be submitted by mail addressed to:

Office of Finance, Crystal Park One, Suite 802, Washington, DC 20231, or by fax to (703) 305–8007, marked to the attention of Matthew Lee.

FOR FURTHER INFORMATION CONTACT: Matthew Lee by e-mail at *matthew.lee@uspto.gov*, by telephone at (703) 305–8051, or by fax at (703) 305–8007.

SUPPLEMENTARY INFORMATION: This proposed rule would adjust our fees in accordance with the applicable provisions of title 35, United States Code, as amended by the Consolidated Appropriations Act, Fiscal Year 2000 (which incorporated the Intellectual Property and Communications Omnibus Reform Act of 1999) (Pub. L. 106–113). This proposed rule would also adjust, by a corresponding amount, a few patent fees (37 CFR 1.17(e), (r), (s), and (t)) that track statutory fees (either 37 CFR 1.16(a) or 1.17(m)).

Legislation has been introduced in the Congress that would alter our fees. Customers should be aware that legislative changes to our fees would supersede this proposed rule. When such changes occur, we will make corresponding rule changes by publication in the **Federal Register**. Customers may wish to refer to our official web site at *www.uspto.gov* for the most current fee amounts. Official notices of any fee changes will appear in the **Federal Register** and the *Official Gazette of the United States Patent and Trademark Office*.

Background

Statutory Provisions

Patent fees are authorized by 35 U.S.C. 41, 119, 120, 132(b) and 376. For fees paid under 35 U.S.C. 41(a) and (b) and 132(b), independent inventors, small business concerns, and nonprofit organizations who meet the requirements of 35 U.S.C. 41(h)(1) are entitled to a fifty-percent reduction.

Section 41(f) of title 35, United States Code, provides that fees established under 35 U.S.C. 41(a) and (b) may be adjusted on October 1, 1992, and every year thereafter, to reflect fluctuations in the CPI over the previous twelve months.

Section 41(d) of title 35, United States Code, authorizes the Director to establish fees for all other processing, services, or materials related to patents to recover the average cost of providing these services or materials, except for the fees for recording a document affecting title, for each photocopy, for each black and white copy of a patent, and for standard library service.

Section 41(g) of title 35, United States Code, provides that new fee amounts established by the Director under section 41 may take effect thirty days after notice in the **Federal Register** and the *Official Gazette of the United States Patent and Trademark Office*.

Fee Adjustment Level

The patent statutory fees established by 35 U.S.C. 41(a) and (b) are proposed to be adjusted on October 1, 2003, to reflect fluctuations occurring during the twelve-month period from October 1, 2002, through September 30, 2003, in the Consumer Price Index for All Urban Consumers (CPI–U). The Office of Management and Budget has advised us that in calculating these fluctuations, we should use CPI–U data as determined by the Secretary of Labor. In accordance with previous fee-setting methodology, we base this fee adjustment on the Administration's projected CPI–U for the twelve-month period ending September 30, 2003, which is 2.17 percent. Based on this projected CPI–U, patent statutory fees are proposed to be adjusted by 2.17 percent. Before the final fee amounts are published, the fee amounts may be adjusted based on actual fluctuations in the CPI–U published by the Secretary of Labor.

Certain patent processing fees established under 35 U.S.C. 41(d), 119, 120, 132(b), 376, and Public Law 103–465 (the Uruguay Round Agreements Act) are proposed to be adjusted to reflect fluctuations in the CPI.

The fee amounts were rounded by applying standard arithmetic rules so that the amounts rounded will be convenient to the user. Fees for other than a small entity of $100 or more were rounded to the nearest $10. Fees of less than $100 were rounded to an even number so that any comparable small entity fee will be a whole number.

General Procedures

Any fee amount that is paid on or after the effective date of the proposed fee adjustment would be subject to the new fees then in effect. The amount of the fee to be paid will be determined by the time of filing. The time of filing will be determined either according to the date of receipt in our office or the date reflected on a proper Certificate of Mailing or Transmission, where such a certificate is authorized under 37 CFR 1.8. Use of a Certificate of Mailing or Transmission is not authorized for items that are specifically excluded from the provisions of § 1.8. Items for which a Certificate of Mailing or Transmission under § 1.8 are not authorized include, for example, filing of Continued Prosecution Applications (CPAs) under § 1.53(d) and other national and international applications for patents. See 37 CFR 1.8(a)(2).

Patent-related correspondence delivered by the ''Express Mail Post Office to Addressee'' service of the United States Postal Service (USPS) is considered filed or received in our office on the date of deposit with the USPS. See 37 CFR 1.10(a)(1). The date of deposit with the USPS is shown by the ''date-in'' on the ''Express Mail'' mailing label or other official USPS notation.

To ensure clarity in the implementation of the proposed new fees, a discussion of specific sections is set forth below.

Discussion of Specific Rules

37 CFR 1.16 National Application Filing Fees

Section 1.16, paragraphs (a), (b), (d), and (f) through (i), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 1.17 Patent Application and Reexamination Processing Fees

Section 1.17, paragraphs (a)(2) through (a)(5), (b) through (e), (m), and

(r) through (t), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 1.18 Patent Post Allowance (Including Issue) Fees

Section 1.18, paragraphs (a) through (c), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 1.20 Post Issuance Fees

Section 1.20, paragraphs (e) through (g), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 1.492 National Stage Fees

Section 1.492, paragraphs (a)(1) through (a)(3), (a)(5), (b), and (d), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

Other Considerations

This proposed rule contains no information collection requirements within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (August 4, 1999).

The Deputy General Counsel for General Law of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule change would not have a significant economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The proposed rule change increases fees to reflect the change in the CPI as authorized by 35 U.S.C. 41(f). Further, the principal impact of the major patent fees has already been taken into account in 35 U.S.C. 41(h)(1), which provides small entities with a fifty-percent reduction in the major patent fees. We received roughly 111,000 patent applications (approximately 33 percent of total patent applications) last year from small entities. Since the average small entity fee would increase by less than $10, with a minimum increase of $1 and a maximum increase of $35, there would not be a significant economic impact on a substantial number of small entities due to this proposed rule change.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Patents.

For the reasons set forth in the preamble, we are proposing to amend title 37 of the Code of Federal Regulations, part 1, as set forth below.

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 would continue to read as follows:

Authority: 35 U.S.C. 2, unless otherwise noted.

2. Section 1.16 is proposed to be amended by revising paragraphs (a), (b), (d), and (f) through (i) to read as follows:

§ 1.16 National application filing fees.

(a) Basic fee for filing each application for an original patent, except provisional, design, or plant applications:
By a small entity (§ 1.27(a)) $385.00
By other than a small entity $770.00

(b) In addition to the basic filing fee in an original application, except provisional applications, for filing or later presentation of each independent claim in excess of 3:
By a small entity (§ 1.27(a)) $43.00
By other than a small entity $86.00

* * * * *

(d) In addition to the basic filing fee in an original application, except provisional applications, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:
By a small entity (§ 1.27(a)) $145.00
By other than a small entity $290.00

* * * * *

(f) Basic fee for filing each design application:
By a small entity (§ 1.27(a)) $170.00
By other than a small entity $340.00

(g) Basic fee for filing each plant application, except provisional applications:
By a small entity (§ 1.27(a)) $265.00
By other than a small entity $530.00

(h) Basic fee for filing each reissue application:
By a small entity (§ 1.27(a)) $385.00
By other than a small entity $770.00

(i) In addition to the basic filing fee in a reissue application, for filing or later presentation of each independent claim which is in excess of the number of independent claims in the original patent:
By a small entity (§ 1.27(a)) $43.00
By other than a small entity $86.00

* * * * *

3. Section 1.17 is proposed to be amended by revising paragraphs (a)(2) through (a)(5), (b) through (e), (m), and (r) through (t) to read as follows:

§ 1.17 Patent application and reexamination processing fees.

(a) * * *

* * * * *

(2) For reply within second month:
By a small entity (§ 1.27(a)) $210.00
By other than a small entity $420.00

(3) For reply within third month:
By a small entity (§ 1.27(a)) $475.00
By other than a small entity $950.00

(4) For reply within fourth month:
By a small entity (§ 1.27(a)) $740.00
By other than a small entity $1,480.00

(5) For reply within fifth month:
By a small entity (§ 1.27(a)) $1,005.00
By other than a small entity $2,010.00

(b) For filing a notice of appeal from the examiner to the Board of Patent Appeals and Interferences:
By a small entity (§ 1.27(a)) $165.00
By other than a small entity $330.00

(c) In addition to the fee for filing a notice of appeal, for filing a brief in support of an appeal:
By a small entity (§ 1.27(a)) $165.00
By other than a small entity $330.00

(d) For filing a request for an oral hearing before the Board of Patent Appeals and Interferences in an appeal under 35 U.S.C. 134:
By a small entity (§ 1.27(a)) $145.00
By other than a small entity $290.00

(e) To request continued examination pursuant to § 1.114:
By a small entity (§ 1.27(a)) $385.00
By other than a small entity $770.00

* * * * *

(m) For filing a petition for the revival of an unintentionally abandoned application, for the unintentionally delayed payment of the fee for issuing a patent, or for the revival of an unintentionally terminated reexamination proceeding under 35 U.S.C. 41(a)(7) (§ 1.137(b)):
By a small entity (§ 1.27(a)) $665.00
By other than a small entity $1,330.00

* * * * *

(r) For entry of a submission after final rejection under § 1.129(a):
By a small entity (§ 1.27(a)) $385.00
By other than a small entity $770.00

(s) For each additional invention requested to be examined under § 1.129(b):
By a small entity (§ 1.27(a)) $385.00
By other than a small entity $770.00

(t) For the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 119, 120, 121, or 365(a) or (c) (§§ 1.55 and 1.78) $1,330.00

4. Section 1.18 is proposed to be amended by revising paragraphs (a) through (c) to read as follows:

§ 1.18 Patent post allowance (including issue) fees.

(a) Issue fee for issuing each original or reissue patent, except a design or plant patent:
By a small entity (§ 1.27(a)) $665.00
By other than a small entity $1,330.00

(b) Issue fee for issuing a design patent:
By a small entity (§ 1.27(a)) $240.00
By other than a small entity $480.00

(c) Issue fee for issuing a plant patent:
By a small entity (§ 1.27(a)) $320.00
By other than a small entity $640.00

* * * *

5. Section 1.20 is proposed to be amended by revising paragraphs (e) through (g) to read as follows:

§ 1.20 Post issuance fees.

* * * * *

(e) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond four years; the fee is due by three years and six months after the original grant:
By a small entity (§ 1.27(a)) $455.00
By other than a small entity $910.00

(f) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond eight years; the fee is due by seven years and six months after the original grant:
By a small entity (§ 1.27(a)) $1,045.00
By other than a small entity $2,090.00

(g) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond twelve years; the fee is due by eleven years and six months after the original grant:
By a small entity (§ 1.27(a)) $1,610.00
By other than a small entity $3,220.00

* * * *

6. Section 1.492 is proposed to be amended by revising paragraphs (a)(1) through (a)(3), (a)(5), (b), and (d) to read as follows:

§ 1.492 National stage fees.

* * * * *

(a) The basic national fee:

(1) Where an international preliminary examination fee as set forth in § 1.482 has been paid on the international application to the United States Patent and Trademark Office:
By a small entity (§ 1.27(a)) $370.00
By other than a small entity $740.00

(2) Where no international preliminary examination fee as set forth in § 1.482 has been paid to the United States Patent and Trademark Office, but an international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority:
By a small entity (§ 1.27(a)) $385.00
By other than a small entity $770.00

(3) Where no international preliminary examination fee as set forth in § 1.482 has been paid and no international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office:
By a small entity (§ 1.27(a)) $540.00
By other than a small entity $1,080.00

* * * * *

(5) Where a search report on the international application has been prepared by the European Patent Office or the Japan Patent Office:
By a small entity (§ 1.27(a)) $460.00
By other than a small entity $920.00

(b) In addition to the basic national fee, for filing or later presentation of each independent claim in excess of 3:
By a small entity (§ 1.27(a)) $43.00
By other than a small entity $86.00

* * * * *

(d) In addition to the basic national fee, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:
By a small entity (§ 1.27(a)) $145.00
By other than a small entity $290.00

* * * * *

Dated: April 24, 2003.

James E. Rogan,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 03–10583 Filed 4–29–03; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7490–4]

National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 39

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'' or ''the Act''), requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (''EPA'' or ''the Agency'') in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This proposed rule proposes to add 14 new sites to the NPL; all to the General Superfund Section of the NPL. (Please note that one of the sites is being reproposed to the NPL.)

DATES: Comments regarding any of these proposed listings must be submitted (postmarked) on or before June 30, 2003.

ADDRESSES: *By electronic access:* Go directly to EPA Dockets at *http://www.epa.gov/edocket* and follow the online instructions for submitting comments. Once in the system, select ''search'', and then key Docket ID No. SFUND–2003–0009. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

By Postal Mail: Mail original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; (Mail Code 5305T); 1200 Pennsylvania Avenue, NW.; Washington, DC 20460, Attention Docket ID No. SFUND–2003–0009.

By Express Mail or Courier: Send original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue; EPA West, Room B102, Washington, DC 20004, Attention Docket ID No. SFUND–2003–0009. Such deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday excluding Federal holidays).

By E-Mail: Comments in ASCII format only may be mailed directly to *superfund.docket@epa.gov.* Cite the Docket ID No. SFUND–2003–0009 in your electronic file. Please note that EPA's e-mail system automatically captures your e-mail address and is included as part of the comment that is placed in the public dockets, and made available in EPA's electronic public docket.

For additional Docket addresses and further details on their contents, see section II, ''Public Review/Public Comment,'' of the **SUPPLEMENTARY INFORMATION** portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Yolanda Singer, phone (703) 603–8835, State, Tribal and Site Identification Center, Office of Emergency and Remedial Response (Mail Code 5204G); U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue, NW.; Washington, DC 20460; or the Superfund Hotline, Phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

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I. Background

A. What Are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act''), in response to the dangers of uncontrolled releases of hazardous substances. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (''SARA''), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What Is the NCP?

To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, pollutants, or contaminants under CERCLA. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes ''criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action for the purpose of taking removal action.'' ''Removal'' actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases (42 U.S.C. 9601(23)).

C. What Is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended by SARA. Section 105(a)(8)(B) defines the NPL as a list of ''releases'' and the highest priority ''facilities'' and requires that the NPL be revised at least annually. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances. The NPL is only of limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Neither does placing a site on the NPL mean that any remedial or removal action necessarily need be taken. *See* Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980), 48 FR 40659 (September 8, 1983).

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by EPA (the ''General Superfund Section''), and one of sites that are owned or operated by other Federal agencies (the ''Federal Facilities Section''). With respect to sites in the Federal Facilities section, these sites are generally being addressed by other Federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining whether the facility is placed on the NPL. EPA generally is not the lead agency at Federal Facilities Section sites, and its role at such sites is accordingly less extensive than at other sites.

D. How Are Sites Listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (*see* 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System (''HRS''), which EPA promulgated as a appendix A of the NCP (40 CFR part 300). The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure, and air. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL; (2) each State may designate a single site as its top priority to be listed on the NPL, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2) requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State (*see* 42 U.S.C. 9605(a)(8)(B));

(3) the third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed regardless of their HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on October 24, 2002 (67 FR 65315).

E. What Happens to Sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the ''Superfund'') only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (''Remedial actions'' are those ''consistent with permanent remedy, taken instead of or in addition to removal actions. * * *'' 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL ''does not imply that monies will be expended.'' EPA may pursue other appropriate authorities to remedy the releases, including enforcement action under CERCLA and other laws.

F. How Are Site Boundaries Defined?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so.

Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance release has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. As a legal matter, the site is not coextensive with that area, and the boundaries of the installation or plant are not the ''boundaries'' of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location to which contamination from that area has come to be located, or from which that contamination came.

In other words, while geographic terms are often used to designate the site (*e.g.*, the ''Jones Co. plant site'') in terms of the property owned by a particular party, the site properly understood is not limited to that property (*e.g.*, it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (*e.g.*, where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the ''site''). The ''site'' is thus neither equal to nor confined by the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. The precise nature and extent of the site are typically not known at the time of listing. Also, the site name is merely used to help identify the geographic location of the contamination. For example, the ''Jones Co. plant site,'' does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the ''nature and extent of the problem presented by the release'' will be determined by a Remedial Investigation/Feasibility Study (''RI/FS'') as more information is developed on site contamination (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, this inquiry focuses on an evaluation of the threat posed; the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, supporting information can be submitted to the Agency at any time after a party receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How Are Sites Removed From the NPL?

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met: (i) Responsible parties or other persons have implemented all appropriate response actions required; (ii) all appropriate Superfund-financed response has been implemented and no further response action is required; or (iii) the remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate. As of April 1, 2003, the Agency has deleted 269 sites from the NPL.

H. Can Portions of Sites Be Deleted From the NPL as They Are Cleaned Up?

In November 1995, EPA initiated a new policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and available for productive use. As of April 1, 2003, EPA has deleted 37 portions of 33 sites.

I. What Is the Construction Completion List (CCL)?

EPA also has developed an NPL construction completion list (''CCL'') to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) EPA has determined that the response action should be limited to measures that do not involve construction (*e.g.*, institutional controls); or (3) the site qualifies for deletion from the NPL.

As of April 1, 2003, there are a total of 850 sites on the CCL. For the most

up-to-date information on the CCL, *see* EPA's Internet site at *http://www.epa.gov/superfund.*

II. Public Review/Public Comment

A. Can I Review the Documents Relevant to This Proposed Rule?

Yes, documents that form the basis for EPA's evaluation and scoring of the sites in this rule are contained in public dockets located both at EPA Headquarters in Washington, DC and in the Regional offices.

B. How Do I Access the Documents?

You may view the documents, by appointment only, in the Headquarters or the Regional dockets after the appearance of this proposed rule. The hours of operation for the Headquarters docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding Federal holidays. Please contact the Regional dockets for hours.

The following is the contact information for the EPA Headquarters docket: Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue; EPA West, Room B102, Washington, DC 20004, 202/566–0276. (Please note this is a visiting address only. Mail comments to EPA Headquarters as detailed at the beginning of this preamble.)

The contact information for the Regional dockets is as follows:

Ellen Culhane, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records Center, Mailcode HSC, One Congress Street, Suite 1100, Boston, MA 02114–2023; 617/918–1225.

Dennis Munhall, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4343.

Dawn Shellenberger (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3PM52, Philadelphia, PA 19103; 215/814–5364.

James R. Wade, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street, SW., 9th floor, Atlanta, GA 30303; 404/562–8121.

Janet Pfundheller, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA, Records Center, Superfund Division SMR–7J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/353–5821.

Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Mailcode 6SF–RA, Dallas, TX 75202–2733; 214/665–7436.

Michelle Quick, Region 7 (IA, KS, MO, NE), U.S. EPA, 901 North 5th Street, Kansas City, KS 66101; 913/551–7335.

David Williams, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 999 18th Street, Suite 500, Mailcode 8EPR–SA, Denver, CO 80202–2466; 303/312–6757.

Carolyn Douglas, Region 9 (AZ, CA, HI, NV, AS, GU), U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105; 415/972–3092.

Tara Martich, Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 6th Avenue, Mail Stop ECL–110, Seattle, WA 98101; 206/553–0039.

You may also request copies from EPA Headquarters or the Regional dockets. An informal request, rather than a formal written request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

You may also access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr.* You may use EPA Dockets at *http://www/epa/gov/edocket* to access the index listing of the contents of the Headquarters docket, and to access those documents in the Headquarters docket. Once in the system, select ''search'', then key in the Docket ID No. SFUND–2003–0009. Please note that there are differences between the Headquarters Docket and the Regional Dockets and those differences are outlined below.

C. What Documents Are Available for Public Review at the Headquarters Docket?

The Headquarters docket for this rule contains: HRS score sheets for the proposed sites; a Documentation Record for the sites describing the information used to compute the score; information for any sites affected by particular statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record.

D. What Documents Are Available for Public Review at the Regional Dockets?

The Regional dockets for this rule contain all of the information in the Headquarters docket, plus, the actual reference documents containing the data principally relied upon and cited by EPA in calculating or evaluating the HRS score for the sites. These reference documents are available only in the Regional dockets.

E. How Do I Submit My Comments?

Comments must be submitted to EPA Headquarters as detailed at the beginning of this preamble in the ''Addresses'' section. Please note that the addresses differ according to method of delivery. There are two different addresses that depend on whether comments are sent by express mail or by postal mail.

F. What Happens to My Comments?

EPA considers all comments received during the comment period. Significant comments will be addressed in a support document that EPA will publish concurrently with the **Federal Register** document if, and when, the site is listed on the NPL.

G. What Should I Consider When Preparing My Comments?

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values or other listing criteria (*Northside Sanitary Landfill* v. *Thomas,* 849 F.2d 1516 (D.C. Cir. 1988)). EPA will not address voluminous comments that are not specifically cited by page number and referenced to the HRS or other listing criteria. EPA will not address comments unless they indicate which component of the HRS documentation record or what particular point in EPA's stated eligibility criteria is at issue.

H. Can I Submit Comments After the Public Comment Period Is Over?

Generally, EPA will not respond to late comments. EPA can only guarantee that it will consider those comments postmarked by the close of the formal comment period. EPA has a policy of not delaying a final listing decision solely to accommodate consideration of late comments.

I. Can I View Public Comments Submitted by Others?

During the comment period, comments are placed in the Headquarters docket and are available to the public on an ''as received'' basis. A complete set of comments will be available for viewing in the Regional dockets approximately one week after the formal comment period closes.

All public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose disclosure is restricted by statute. For additional information about EPA's electronic public docket, visit EPA Dockets online at *http://www.epa.gov.edocket* or *see* the

May 31, 2002 **Federal Register** (67 FR 38102).

J. Can I Submit Comments Regarding Sites Not Currently Proposed to the NPL?

In certain instances, interested parties have written to EPA concerning sites which were not at that time proposed to the NPL. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if still appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to the period of formal proposal and comment will not generally be included in the docket.

III. Contents of This Proposed Rule

A. Proposed Additions to the NPL

With today's proposed rule, EPA is proposing to add 14 new sites to the NPL; all to the General Superfund Section of the NPL. (Please note that the 68th Street Dump site in Maryland is being reproposed to the NPL. With this reproposal, EPA is withdrawing the January 19, 1999 (64 FR 2950), proposal of the site. Commenters will need to re-submit comments based on today's reproposal.) All of the sites in this proposed rulemaking are being proposed based on HRS scores of 28.50 or above. The sites are presented in Table 1 which follows this preamble.

B. Status of NPL

A final rule published elsewhere in today's **Federal Register** finalizes 7 sites to the NPL; resulting in an NPL of 1,237 final sites; 1,079 in the General Superfund Section and 158 in the Federal Facilities Section. With this proposal of 14 new sites, there are now 66 sites proposed and awaiting final agency action, 60 in the General Superfund Section and 6 in the Federal Facilities Section. Final and proposed sites now total 1,303. (These numbers reflect the status of sites as of April 1, 2003. Site deletions occurring after this date may affect these numbers at time of publication in the **Federal Register**.)

C. Withdrawal of Site from Proposal to the NPL

EPA is withdrawing its proposal to list the Triumph Mine Tailing Piles site on the NPL. The site, located in Triumph, Idaho, was proposed to the NPL on May 10, 1993 (58 FR 27507). Documentation requesting withdrawal of the site was submitted by the State and EPA Region 10 and is available in the Docket for today's proposed rule.

EPA does not believe that further response under Superfund is appropriate at this time. All major sources of risk have been mitigated. All contaminated yards, gardens, roads, waste rock, tailings, and other soil areas have either been excavated and replaced with clean soil, or capped with clean soil and a vegetative cover. The State has indicated that it will enforce the consent order requiring ASARCO to address mine water discharge from the mine portal, and if those efforts fail, seek alternative sources to do the work. The State and community strongly support withdrawing the site from the proposed NPL, and EPA does not believe the mine water discharge warrants retaining the proposal to list the site on the NPL.

IV. Executive Order 12866

A. What Is Executive Order 12866?

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create 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 the Executive Order.

B. Is This Proposed Rule Subject to Executive Order 12866 Review?

No. The listing of sites on the NPL does not impose any obligations on any entities. The listing does not set standards or a regulatory regime and imposes no liability or costs. Any liability under CERCLA exists irrespective of whether a site is listed. It has been determined that this action is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

V. Unfunded Mandates

A. What Is the Unfunded Mandates Reform Act (UMRA)?

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before EPA promulgates a rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

B. Does UMRA Apply to This Proposed Rule?

No, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments in the aggregate, or by the private sector in any one year. This rule will not impose any Federal intergovernmental mandate because it imposes no enforceable duty upon State, tribal or local governments. Listing a site on the NPL does not itself impose any costs. Listing does not mean that EPA necessarily will undertake

remedial action. Nor does listing require any action by a private party or determine liability for response costs. Costs that arise out of site responses result from site-specific decisions regarding what actions to take, not directly from the act of listing a site on the NPL.

For the same reasons, EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act.

VI. Effect on Small Businesses

A. What Is the Regulatory Flexibility Act?

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

B. How Has EPA Complied with the Regulatory Flexibility Act (RFA)?

This proposed rule listing sites on the NPL, if promulgated, would not impose any obligations on any group, including small entities. This proposed rule, if promulgated, also would establish no standards or requirements that any small entity must meet, and would impose no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking. Thus, this proposed rule, if promulgated, would not impose any requirements on any small entities. For the foregoing reasons, I certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

VII. National Technology Transfer and Advancement Act

A. What Is the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

B. Does the National Technology Transfer and Advancement Act Apply to This Proposed Rule?

No. This proposed rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

VIII. Executive Order 12898

A. What Is Executive Order 12898?

Under Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' as well as through EPA's April 1995, ''Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report,'' and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities, and all people live in clean and sustainable communities.

B. Does Executive Order 12898 Apply to This Proposed Rule?

No. While this rule proposes to revise the NPL, no action will result from this proposal that will have disproportionately high and adverse human health and environmental effects on any segment of the population.

IX. Executive Order 13045

A. What Is Executive Order 13045?

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

B. Does Executive Order 13045 Apply to This Proposed Rule?

This proposed rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this proposed rule present a disproportionate risk to children.

X. Paperwork Reduction Act

A. What Is the Paperwork Reduction Act?

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rules, are listed in 40 CFR part 9. The information collection requirements related to this action have already been approved by OMB pursuant to the PRA under OMB control number 2070–0012 (EPA ICR No. 574).

B. Does the Paperwork Reduction Act Apply to This Proposed Rule?

No. EPA has determined that the PRA does not apply because this rule does not contain any information collection

requirements that require approval of the OMB.

XI. Executive Orders on Federalism

What Are the Executive Orders on Federalism and Are They Applicable to This Proposed Rule?

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

XII. Executive Order 13084

What Is Executive Order 13084 and Is It Applicable to This Proposed Rule?

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

This proposed rule does not significantly or uniquely affect the communities of Indian tribal governments because it does not significantly or uniquely affect their communities. The addition of sites to the NPL will not impose any substantial direct compliance costs on Tribes. While Tribes may incur costs from participating in the investigations and cleanup decisions, those costs are not compliance costs. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

XIII. Executive Order 13175

A. What Is Executive Order 13175?

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

B. Does Executive Order 13175 Apply to This Proposed Rule?

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

XIV. Executive Order 13211

A. What Is Executive Order 13211?

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), requires EPA to prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for certain actions identified as ''significant energy actions.'' Section 4(b) of Executive Order 13211 defines ''significant energy actions'' as ''any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.''

B. Is This Rule Subject to Executive Order 13211?

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866 (See discussion of Executive Order 12866 above.)

TABLE 1.—NATIONAL PRIORITIES LIST PROPOSED RULE NO. 39, GENERAL SUPERFUND SECTION

State	Site name	City/county
CA	AMCO Chemical	Oakland
CO	Captain Jack Mill	Ward
MD	68th Street Dump	Baltimore
MO	Madison County Mines	Fredericktown
MO	Newton County Mine Tailings	Newton County
NC	Ram Leather Care	Charlotte
NH	Troy Mills Landfill	Troy
NJ	Rolling Knolls Landfill	Chatham Township
NJ	Standard Chlorine Chemical Company, Inc	Kearny
NJ	White Swan Cleaners/Sun Cleaners Area Ground Water Contamination	Wall Township
OH	Armco Inc, Hamilton Plant	Hamilton
OH	Peters Cartridge Factory	Kings Mills
TX	Conroe Creosoting Company	Conroe
TX	Jones Road Ground Water Plume	Harris County

Number of sites proposed to General Superfund Section: 14.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: April 24, 2003.

Barry Breen,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 03–10649 Filed 4–29–03; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 68, No. 83

Wednesday, April 30, 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

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

Notice of Request for Extension of a Currently Approved Information Collection

AGENCIES: Rural Housing Service (RHS), Rural Business-Cooperative Service (RBS), Rural Utilities Service (RUS), and Farm Service Agency (FSA), USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the above-named Agencies to request an extension for a currently approved information collection in support of debt settlement of Community Facilities and Direct Business Program Loans and Grants.

DATES: Comments on this notice must be received by June 30, 2003 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: For inquiries on the Information Collection Package, contact Renita Bolden, Regulations and Paperwork Management Branch, (202) 692–0035. For program content, contact Derek L. Jones, Senior Loan Specialist, Community Programs, RHS, USDA, 1400 Independence Ave., SW., Mail Stop 0787, Washington, DC 20250–0787, Telephone (202) 720–1504, E-mail *derek.jones@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: 7 CFR part 1956, subpart C—''Debt Settlement-Community and Business Programs.''

OMB Number: 0575–0124.

Expiration Date of Approval: October 31, 2003.

Type of Request: Extension of a currently approved information collection.

Abstract: The following Community and Direct Business Programs loans and grants are debt settled by this currently approved docket (0575–0124). The Community Facilities loan and grant program is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public entities, nonprofit corporations, and Indian tribes through the Community Facilities program for the development of essential community facilities primarily serving rural residents.

The Economic Opportunity Act of 1964, Title 3 (Pub. L. 88–452), authorizes Economic Opportunity Cooperative loans to assist incorporated and unincorporated associations to provide low-income rural families essential processing, purchasing, or marketing services, supplies, or facilities.

The Food Security Act of 1985, Section 1323 (Pub. L. 99–198), authorizes loan guarantees and grants to Nonprofit National Corporations to provide technical and financial assistance to for-profit or nonprofit local businesses in rural areas.

The Business and Industry program is authorized by Section 310 B (7 U.S.C. 1932) (Pub. L. 92.419, August 30, 1972) of the Consolidated Farm and Rural Development Act to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities, including pollution abatement control.

The Consolidated Farm and Rural Development Act, Section 310 B(c) (7 U.S.C. 1932(c)), authorizes Rural Business Enterprise Grants to public bodies and nonprofit corporations to facilitate the development of private businesses in rural areas.

The Consolidated Farm and Rural Development Act, Section 310 B(f)(i) (7 U.S.C. 1932(c)), authorized Rural Cooperative Development Grants to nonprofit institutions for the purpose of enabling such institutions to establish and operate centers for rural cooperative development.

The FSA is authorized by 25 U.S.C. 488–494, to make loans through its Indian tribal land loan program to individuals, tribes, or tribal corporations within tribal reservations and Alaskan communities. The authority for FSA to make loans for grazing, irrigation and drainage, and farm ownership recreation loans is provided by the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1926 Sections 330–381).

The purpose of the debt settlement function for the above programs is to provide the delinquent client with an equitable tool for the compromise, adjustment, cancellation, or charge-off of a debt owed to the Agency. The information collected is similar to that required by a commercial lender in similar circumstances.

Information will be collected by the field offices from applicants, borrowers, consultants, lenders, and attorneys.

Failure to collect information could result in improper servicing of these loans.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 8 hours per response.

Respondents: Public bodies and nonprofit organizations.

Estimated Number of Respondents: 15.

Estimated Number of Responses per Respondent: 3.

Estimated Total Annual Burden on Respondents: 813 hours.

Estimated Number of Responses: 5.

Copies of this information collection can be obtained from Renita Bolden, Regulations and Paperwork Management Branch, (202) 692–0035.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) 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; (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 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. Comments may be sent to Renita Bolden, Regulations and Paperwork

Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: April 9, 2003.

Arthur A. Garcia,

Administrator, Rural Housing Service.

Dated: April 7, 2003.

John Rosso,

Administrator, Rural Business-Cooperative Service.

Dated: April 7, 2003.

Hilda Legg,

Administrator, Rural Utilities Service.

Dated: April 8, 2003.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 03–10525 Filed 4–29–03; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Forest Industries Data Collection System

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension of the information collection for two questionnaires used to evaluate trends in the use of logs and wood chips, to forecast anticipated levels of logs and wood chips, and to analyze changes in the harvest of these resources from National Forest System lands.

DATES: Comments must be received in writing on or before June 30, 2003 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to the USDA Forest Service, Attn: Michael Howell, Forest Inventory and Analysis, Southern Research Station, 4700 Old Kingston Pike, Knoxville, TN, 37919–5206. Comments also may be submitted via facsimile to (865) 862–2048 or by e-mail to: *mhowell@fs.fed.us.*

The public may inspect comments received at the Southern Research Station, 4700 Old Kingston Pike, Resource Use Office, Knoxville, Tennessee during normal business hours. Visitors are encouraged to call ahead to (865) 862–2000 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Michael Howell, Southern Research Station, at (865) 862–2054.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

1. *Title:* Pulpwood Received Questionnaire.

OMB Number: 0596–0010.

Expiration Date of Approval: June 30, 2003.

Type of Request: Extension.

Abstract: The Forest and Range Renewable Resources Planning Act of 1974 and the Forest and Rangeland Renewable Resources Research Act of 1978 require the Forest Service to evaluate trends in the use of logs and wood chips, to forecast anticipated levels of logs and wood chips, and to analyze changes in the harvest of these resources from National Forest System lands.

To collect this information, Forest Service personnel use the Pulpwood Received questionnaire. Questions include what type of logs or wood chips have been received by the mill, from which geographic locations have the logs or wood chips been harvested, what variety of tree species have been harvested and received by the mill, how much was paid by the mill for the logs or wood chips, and what is the volume of byproducts that have been produced as a result of the manufacturing process, such as bark, sawdust, and slabs. The questionnaire also includes the State and the calendar year for which information will be collected.

The Forest Service mails the questionnaires to primary wood-using mills, which include small, part-time mills and pulping companies, as well as large paper companies. Primary wood-using mills are facilities that use harvested wood in log or chip form, such as sawlogs, veneer logs, pulpwood, and pulp chips, to manufacture a secondary product, such as lumber or paper. Respondents return the completed questionnaire by mail in self-addressed, postage-paid envelopes.

The information is collected by Forest Service personnel at the following Forest Service research stations: Northeast Research Station (Radnor, Pa), North Central Research Station (St. Paul, Mn), Southern Research Station (Asheville, NC), Rocky Mountain Research Station (Ogden, Ut), and Pacific Northwest Research Station (Portland, Or). The data collected will be used to provide essential information about the current drain on the Nation's timber resources for pulpwood industrial products.

Forest Service personnel will evaluate the information collected from the pulp mills to monitor the volume, types, species, sources, and prices of timber products harvested throughout the Nation. The data from this collection of information is not available from other sources.

Estimate of Annual Burden: 0.5 hours.

Type of Respondents: Primary users of industrial pulpwood and wood chips.

Estimated Annual Number of Respondents: 225.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 113.

2. *Title:* Logs and Other Roundwood Received Questionnaire.

OMB Number: 0596–0010.

Expiration Date of Approval: June 30, 2003.

Type of Request: Extension.

Abstract: The Forest and Range Renewable Resources Planning Act of 1974 and the Forest and Rangeland Renewable Resources Research Act of 1978 require the Forest Service to evaluate trends in the use of logs and wood chips, to forecast anticipated levels of logs and wood chips, and to analyze changes in the harvest of these resources from National Forest System lands.

To collect the information, Forest Service personnel use the Logs and Other Roundwood Received questionnaire. The questionnaire is mailed to primary wood-using mills, which include small, part-time mills as well as large corporate entities. The Logs and Other Roundwood Received questionnaire includes the State and the calendar year for which information will be collected. Respondents return the completed questionnaire by mail in self-addressed, postage-paid envelopes.

The information is to be collected by Forest Service personnel at the following Forest Service research stations: Northeast Research Station (Radnor, Pa), North Central Research Station (St. Paul, Mn), Southern Research Station (Asheville, NC), Rocky Mountain Research Station (Ogden, Ut), and Pacific Northwest Research Station (Portland, Or).

Respondents answer questions that include the type of logs or wood chips that have been received by the mill, the geographic locations from which the logs or wood chips have been harvested, the variety of tree species that have been harvested and received by the mill, the prices the mill has paid for the logs or wood chips, and the volume of byproducts that have been produced as a result of the manufacturing process, such as bark, sawdust, and slabs.

The Forest Service will collect information from primary wood-using mills, which includes small, part-time mills, as well as large corporate entities. Primary wood-using mills are facilities that use harvested wood in log or chip form, such as sawlogs, veneer logs, pulpwood, and pulp chips, to manufacture a secondary product, such as lumber or paper. The data collected is used to provide essential information about the current drain on the Nation's timber resources for pulpwood industrial products.

Forest Service personnel evaluate the information collected from the pulp mills to monitor the volume, types, species, sources, and prices of timber products harvested throughout the Nation. The data from this collection of information is not available from other sources.

Estimate of Annual Burden: 0.84 hours.

Type of Respondents: Primary users of industrial roundwood products.

Estimated Annual Number of Respondents: 1885.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1583.

Comment Is Invited

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. In submitting this proposal to the Office of Management and Budget for approval, the Forest Service will summarize and respond to comments received.

Dated: April 24, 2003.

Robert Lewis, Jr.,

Deputy Chief, Research and Development.

[FR Doc. 03–10605 Filed 4–29–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Hood/Willamette Resource Advisory Committee (RAC) meeting

AGENCY: Forest Service, USDA.

ACTION: Action of Meeting.

SUMMARY: The Hood/Willamette Resource Advisory Committee (RAC) will meet on Thursday, June 19, 2003. The meeting is scheduled to begin at 9 a.m. and will conclude at approximately 4 p.m. The meeting will be held at the Salem Office of the Bureau of Land Management Office; 1717 Fabry Road SE; Salem, Oregon; (503) 375–5646. The tentative agenda includes: (1) Recommendations on 2004 Projects; and (2) Public Forum.

The Public Forum is tentatively scheduled to begin at 9:30 p.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may be submitted prior to the June 19th meeting by sending them to Designated Federal Official Donna Short at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Donna Short; Sweet Home Ranger District; 3225 Highway 20; Sweet Home, Oregon 97386; (541) 367–9220.

Dated: April 23, 2003.

Dallas J. Emch,

Forest Supervisor.

[FR Doc. 03–10638 Filed 4–29–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee will meet in Yreka, California, May 19, 2003. The meeting will include routine business and discussion of outreach initiatives and signage at project sites.

DATES: The meeting will be held May 19, 2003 from 4 p.m. until 7 p.m.

ADDRESSES: The meeting will be held at the Yreka High School Library, Preece Way, Yreka, California.

FOR FURTHER INFORMATION CONTACT: Don Hall, RAC Coordinator, Klamath National Forest, (530) 841–4468 or electronically at *donaldhall@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Public comment opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: April 23, 2003.

Margaret J. Boland,

Designated Federal Official.

[FR Doc. 03–10640 Filed 4–29–03; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Hampshire Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference call of the New Hampshire Advisory Committee to the Commission will convene at 2 p.m. and adjourn at 3:30 p.m. on Thursday, May 8, 2003. The purpose of the conference call is to further planning discussions for a community forum in Manchester, New Hampshire on education, social service delivery, and health delivery issues.

This conference call is available to the public through the following call-in number: 1–888–532–2333, access code: 16360099. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or over wireless lines and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over land-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and access code.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Aonghas St. Hilaire of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116), by 4 p.m. on Wednesday, May 7, 2003.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated in Washington, DC, April 8, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–10647 Filed 4–29–03; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

[I.D. 042403B]

Submission for OMB Review; Comment Request

SUPPLEMENTARY INFORMATION: The Department of Commerce 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: National Oceanic and Atmospheric Administration.

Title: StormReady and TsunamiReady/StormReady Application Forms.

Form Number(s): None.

OMB Approval Number: 0648–0419.

Type of Request: Regular submission.

Burden Hours: 75.

Number of Respondents: 75.

Average Hours Per Response: 1 hour.

Needs and Uses: StormReady and TsunamiReady are voluntary programs offered as a means of providing guidance and incentive to officials interested in improving their respective hazardous weather operations. The StormReady Application Form and TsunamiReady/StormReady Application Form will be used by localities to apply for initial StormReady or TsunamiReady and StormReady recognition and renewal of that recognition every three years. The government will use the information collected by the StormReady or TsunamiReady/StormReady Application Form to determine whether a community has met all of the criteria to receive StormReady and/or TsunamiReady recognition.

Affected Public: State, Local, or Tribal Government.

Frequency: Every 3 years.

Respondent's Obligation: Voluntary.

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

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: April 22, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–10675 Filed 4–29–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

[I.D. 042403D]

Submission for OMB Review; Comment Request

SUPPLEMENTARY INFORMATION: The Department of Commerce 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: National Oceanic and Atmospheric Administration (NOAA).

Title: Designation of Fishery Management Council Members and Application for Reinstatement of State Authority.

Form Number(s): None.

OMB Approval Number: 0648–0314.

Type of Request: Regular submission.

Burden Hours: 4,543.

Number of Respondents: 142.

Average Hours Per *Response:* 1 hour to designate a principal state fishery official(s); 80 hours for a nomination for a Council appointment; 16 hours for background documentation from nominees; and 1 hour for a request to reinstate state authority.

Needs and Uses: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended in l996, provides for the nomination for members of Fishery Management Councils by state governors and Indian treaty tribes, for the designation of a principal state fishery official who will perform duties under the Magnuson-Stevens Act, and for a request by a state for reinstatement of state authority over a managed fishery. Nominees for council membership must provide the governor or tribe with background documentation. The State governors and Indian treaty tribes submit written nominations to the Secretary of Commerce, together with recommendations and statements of candidate qualifications. Designations of state officials and requests for reinstatement of state authority are also made in writing in response to regulations. No forms are used. The information submitted with these actions will be used to ensure that the requirements of the Magnuson-Stevens Act are being met.

Affected Public: State, Local, or Tribal government.

Frequency: Annually and on occasion.

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 Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: April 22, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–10677 Filed 4–29–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

Baylor College of Medicine, *et al.*; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW., Washington, DC.

Docket Number: 03–009. *Applicant:* Baylor College of Medicine, Houston, TX 77030. *Instrument:* Electron Microscope, Model JEM–1230. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 68 FR 14197, March 24, 2003. *Order Date:* September 12, 2002.

Docket Number: 03–011. *Applicant:* Rice University, Houston, TX 77251–1892. *Instrument:* Electron Microscope, Model JEM–2010. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at

68 FR 14197, March 24, 2003. *Order Date:* August 30, 2002.

Docket Number: 03–012. *Applicant:* Beckman Research Institute of the City of Hope National Medical Center, Duarte, CA 91010. *Instrument:* Electron Microscope, Model Tecnai G 2 12 TWIN. *Manufacturer:* FEI Company, The Netherlands. *Intended Use:* See notice at 68 FR 14197, March 24, 2003. *Order Date:* December 20, 2002.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 03–10672 Filed 4–29–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

The University of Louisiana at Lafayette; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW., Washington, DC.

Docket Number: 03–013. *Applicant:* The University of Louisiana at Lafayette, Lafayette, CA 70504. *Instrument:* Nuclear Microprobe System Accessories. *Manufacturer:* Oxford Microbeams Limited, United Kingdom. *Intended Use:* See notice at 68 FR 14197, March 24, 2003.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* These are compatible accessories for an existing instrument purchased for the use of the applicant.

The accessories are pertinent to the intended uses and we know of no domestic accessories which can be readily adapted to the previously imported instrument.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 03–10673 Filed 4–29–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration.

[I.D. 042403C]

Proposed Information Collection; Comment Request; Gulf of Mexico Reef Fish and Coastal Pelagics Economic Data Collection.

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 30, 2003.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jim Waters, Department of Commerce, NOAA, National Marine Fisheries Service, 101 Pivers Island Road, Beaufort, NC 28516–9722, (252–728–8710).

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS) proposes to collect information about vessel expenses and earnings in the Gulf of Mexico reef fish and coastal pelagics (mackerels) fisheries. The information will be used to conduct economic analyses that will improve fishery management in those fisheries; satisfy NMFS' legal mandates under Executive Order 12866, the Magnuson-Steven Fishery Conservation and Management Act (U.S.C. 1801 *et seq.*), the Regulatory Flexibility Act, the Endangered Species Act, and the National Environmental Policy Act; and quantify achievement of the performances measures in the NMFS Strategic Operating Plans. These data will be collected in conjunction with catch and effort data already being collected in this fishery as part of its logbook program, and will be used to assess how fishermen will be impacted by and respond to regulations likely to be considered by fishery managers.

II. Method of Collection

Owners of selected vessels with Federal commercial permits in the Gulf of Mexico reef fish and coastal pelagics fisheries will be required to report information about trip costs, input usage, input prices, and dockside prices as part of the logbook reporting requirements in this fishery. In addition, these vessel owners will be required to complete and submit by mail a separate form about annual fixed cost information such as expenditures for repair and maintenance, gear purchase and repair, fishing licenses and permits, insurance, dock fees, repayment on boat and business loans, office expenses, etc.

III. Data

OMB Number: 0648–0016.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business and other for-profit organizations.

Estimated Number of Respondents: 350.

Estimated Time Per Response: 10 minutes per trip report, and 30 minutes for an annual fixed-cost survey.

Estimated Total Annual Burden Hours: 1,400.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques

or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 22, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–10676 Filed 4–29–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Monterey Bay National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary) is seeking applicants for the following seat on its Sanctuary Advisory Council: Tourism Alternate. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the Sanctuary. The MBNMS is recruiting an alternate representative for this Tourism seat, which was vacated by the previously appointed representative before his/her term had expired. The applicant who is chosen for this seat should expect to serve until February 2005.

DATES: Applications are due by May 12, 2003.

ADDRESSES: Application kits may be obtained from Nicole Capps at the Monterey Bay National Marine Sanctuary, 299 Foam Street, Monterey, California 93940. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Nicole Capps at (831) 647–4206, or *Nicole.Capps@noaa.gov*

SUPPLEMENTARY INFORMATION: The MBNMS Advisory Council was established in March 1994 to assure continued public participation in the management of the Sanctuary. Since its establishment, the Advisory Council has played a vital role in decisions affecting the Sanctuary along the central California coast.

The Advisory Council's twenty voting members represent a variety of local user groups, as well as the general public, plus seven local, state and Federal governmental jurisdictions. In addition, the respective managers or superintendents for the four California National Marine Sanctuaries (Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary and the Monterey Bay National Marine Sanctuary) and the Elkhorn Slough National Estuarine Research Reserve sit as non-voting members.

Four working groups support the Advisory Council: The Research Activity Panel (''RAP'') chaired by the Research Representative, the Sanctuary Education Panel (''SEP'') chaired by the Education Representative, the Conservation Working Group (''CWG'') chaired by the Conservation Representative, and the Business and Tourism Activity Panel (''BTAP'') chaired by the Business/Industry Representative, dealing, respectively, with matters concerning research, education, conservation and human use. The working groups are composed of experts from the appropriate fields of interest and meet monthly, or bi-monthly, serving as invaluable advisers to the Advisory Council and the Sanctuary Superintendent.

The Advisory Council represents a coordination link between the Sanctuary and the state and Federal management agencies, user groups, researchers, educators, policy makers, and other various groups that help to focus efforts and attention on the central California coastal and marine ecosystems.

The Advisory Council functions in an advisory capacity to the Sanctuary Superintendent and is instrumental in helping develop policies, program goals, and identify education, outreach, research, long-term monitoring, resource protection, and revenue enhancement priorities. The Advisory Council works in concert with the Sanctuary Superintendent by keeping him or her informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Superintendent in achieving the goals of the Sanctuary program.

Authority: 16 U.S.C. Sections 1431, *et seq.* (Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: April 24, 2003.

Jamison S. Hawkins,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 03–10604 Filed 4–29–03; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041103A]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Receipt of applications for 10 scientific research permits and three permit modifications.

SUMMARY: Notice is hereby given that NMFS has received 11 permit applications and three applications to modify existing scientific research permits relating to Pacific salmon and steelhead. All of the proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts.

DATES: Comments or requests for a public hearing on the applications or modification requests must be received no later than 5 p.m. Pacific daylight savings time on May 30, 2003.

ADDRESSES: Written comments on the applications or modification requests should be sent to Protected Resources Division, NMFS, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737. Comments may also be sent via fax to 503–230–5435. Comments will not be accepted if submitted via e-mail or the internet.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Portland, OR (ph: 503–231–2005, Fax: 503–230–5435, e-mail: *Garth.Griffin@noaa.gov*). Permit application instructions are available at *http://www.nwr.noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species and evolutionarily significant units (ESUs) are covered in this notice:

Sockeye salmon (*Oncorhynchus nerka*): endangered Snake River (SR).

Chinook salmon (*O. tshawytscha*): endangered natural and artificially propagated upper Columbia River

(UCR); threatened natural and artificially propagated SR spring/summer (S/S); threatened SR fall; threatened lower Columbia River (LCR); threatened artificially produced Puget Sound (PS); threatened upper Willamette River (UWR).

Chum salmon (*O. keta*): threatened Columbia River (CR).

Steelhead (*O. mykiss*): endangered natural and artificially propagated UCR; threatened SR; threatened middle Columbia River (MCR); threatened LCR.

Coho Salmon (*O. kisutch*): threatened Oregon coast (OC).

Authority

Scientific research permits are issued in accordance with Section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et. seq.*) and regulations governing listed fish and wildlife permits (50 CFR 222–226). NMFS issues permits/modifications based on findings that such permits and modifications: (1) are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA.

Permit Applications Received

Permit 1119

The U.S. Fish and Wildlife Service (USFWS) is seeking a 5–year permit covering five studies that, among them, would annually take adult and juvenile endangered UCR spring chinook salmon (natural and artificially propagated) and adult and juvenile endangered UCR steelhead (natural and artificially propagated) at various points in the Wenatchee, Entiat, Methow, Okanogan, and Yakima River watersheds and other points in eastern Washington State. The research was originally conducted under Permit 1119, which was in place for 5 years (63 FR 27055) with two amendments (65 FR 11288, 66 FR 38641); it expired on December 31, 2002. Over the years, there have been some changes in the research and they are reflected in this proposal (e.g., the aforementioned amendments), nonetheless, the proposed projects are largely continuations of ongoing research. They are: Study 1–Recovery of ESA-listed Entiat River Salmonids through Improved Management Actions; Study 2–From extirpation to colonization: an attempt to restore salmon back to their former streams; Study 3–Entiat Basin Spawning Ground Surveys; Study 4–Snorkel Surveys in the Wenatchee, Entiat, Methow, Okanogan, and Yakima Watersheds and Other Waterways of Eastern Washington; Study; 5–Fish Salvage Activities in the Wenatchee, Entiat, Methow, Okanogan, and Yakima Watersheds and other Waterways of Eastern Washington. Under these studies, listed adult and juvenile salmon would be variously (a) captured (using nets, traps, and electrofishing equipment) and anesthetized; (b) sampled for biological information and tissue samples; (c) tagged with passive integrated transponders (PIT tags) or other identifiers; and (e) released.

The research has many purposes and would benefit listed salmon and steelhead in different ways. In general, the purpose of the research is to (a) gain current information on the status and productivity of various fish populations (to be used in determining the effectiveness of restoration programs); (b) collect data on the how well artificial propagation programs are helping salmon recovery efforts (looking at hatchery and wild fish interactions); (c) support the aquatic species restoration goals found in several regional plans; and (d) fulfill ESA requirements for several fish hatcheries. The fish would benefit through improved recovery actions, better designs for hatchery supplementation programs, and by being rescued outright when they are stranded by low flows in Eastern Washington streams. The USFWS does not intend to kill any of the fish being captured, but a small percentage may die as an unintended result of the research activities.

Permit 1194

The Northwest Fisheries Science Center (NWFSC) in Seattle, WA is requesting a 5–year permit to annually take adult endangered UCR steelhead, adult endangered UCR spring chinook salmon, and adult threatened SR spring/summer chinook salmon during a study designed to evaluate passive integrated transponder tag (PIT) interrogation systems at Bonneville Dam on the Columbia River. Permit 1194 has been in place for almost 5 years and is due to expire on December 31, 2003. The NWFSC proposes to continue to capture (using traps at Bonneville Dam), anesthetize, tag, release, and monitor with video cameras adult fish.

The objectives of the study are to evaluate the ability of the prototype tag detection systems to detect PIT-tagged adult salmon passing through the facility and evaluate the effects of the detection system on adult behavior as they approach and pass through it. The NWFSC does not intend to kill any of the fish being captured, but a small percentage may die as an unintended result of the research activities.

Permit 1335–Modification 2

The USDA Forest Service (USFS) in Corvallis, OR requests that Permit 1335 be modified to allow them to increase annual takes of juvenile endangered UCR chinook (artificially propagated); juvenile threatened LCR chinook salmon; juvenile threatened UWR chinook salmon; juvenile threatened PS chinook (artificially propagated); juvenile endangered UCR steelhead (artificially propagated); juvenile threatened LCR steelhead; juvenile threatened UWR steelhead; juvenile threatened OC coho salmon; and juvenile threatened SONCC coho salmon in selected stream systems in the Columbia, Puget Sound, and Oregon Coast basins. The USFS proposes to capture (using backpack electrofishing), anesthetize, measure, and release listed salmonids.

The purposes of the study are to assess watershed conditions and factors limiting salmonid health and production, and evaluate watershed health under the Northwest Forest Plan. The activities will benefit listed fish by generating information to improve forest management. The USFS does not intend to kill any of the listed fish being captured, but a small percentage may die as an unintended result of the research activities.

Permit 1366–Modification 1

The Oregon Cooperative Fish and Wildlife Research Unit (OCFWRU) and the Idaho Cooperative Fish and Wildlife research Unit (ICFWRU) are requesting a 5–year permit covering four studies that, among them, would annually take juvenile threatened SR fall chinook salmon; juvenile threatened SR spring/summer chinook salmon (natural and artificially propagated); juvenile endangered UCR spring chinook salmon (natural and artificially propagated), juvenile threatened LCR chinook salmon; juvenile endangered UCR steelhead (natural and artificially propagated); juvenile threatened SR steelhead; and adult and juvenile endangered SR sockeye salmon at various dams on the Columbia and Snake Rivers. The research is largely a continuation of four ongoing studies

(with some alteration in take numbers). They are: Study 1–\Evaluation of Comparative Survival of In-river Passage and Multiple Bypassed Juvenile Salmon; Study 2–Evaluation of Delayed Mortality in the Near-ocean Environment Following Passage Through the Columbia river Hydropower System; Study 3–Evaluation of Survival and Adult Return Rate of Transported Juvenile Salmon Compared to In-river Migrating Fish; Study 4–Evaluation of Migration and Survival of Juvenile Salmonids Following Transportation. Under these studies, juvenile listed salmon would be variously (a) captured using lift nets or dipnets at the dams (or acquired from Columbia River Smolt Monitoring Program or NMFS personnel at Bonneville Dam), (b) sampled for biological information or tagged with radiotransmitters, and (c) released.

The research has many purposes and would benefit listed salmon and steelhead in different ways. In general, the purpose of the research is to compare biological and physiological indices of wild and hatchery juvenile fish exposed to stress during bypass, collection, and transportation activities at the dams. The research will benefit the listed species by helping determine what effects the dams and their associated structures and management activities have on the outmigrating salmonids and using that information modify those factors in ways that increase salmonid survival.

Permit 1379

The Columbia River Inter Tribal Fish Commission (CRITFC) is requesting a 5–year permit covering three study projects that, among them, would annually take adult and juvenile threatened SR fall chinook salmon; adult and juvenile threatened SR spring/summer chinook salmon (natural and artificially propagated); juvenile endangered UCR spring chinook salmon (natural and artificially propagated), adult threatened LCR chinook salmon; adult and juvenile endangered UCR steelhead (natural and artificially propagated); adult and juvenile threatened SR steelhead; and adult and juvenile endangered SR sockeye salmon at various points in the Columbia, Wenatchee, and Methow Rivers in Washington State. The research was originally conducted under Permit 1134, which was in place for 5 years (63 FR 30199) with one amendment (67 FR 43909); it expired on December 31, 2002. Over the years, there have been some changes in the research and they are reflected in this proposal (e.g., the aforementioned amendment and some reallocation of research activities and their associated take to this and other permits), nonetheless, the proposed projects are largely continuations of ongoing research. They are: Project 1–Juvenile Upriver Bright Fall Chinook Sampling at the Hanford Reach (does not directly target a listed species but would indirectly take them); Project 2–Adult Chinook, Sockeye, and Coho Sampling at Bonnevile Dam; and Project 3–Adult Sockeye Sampling at Tumwater Dam, Wenatchee River (does not directly target a listed species but would indirectly take them). Under these tasks, listed adult and juvenile salmon would be variously (a) captured (using seines, trawls, traps, hook-and-line angling equipment, and electrofishing equipment) and anesthetized; (b) sampled for biological information and tissue samples, (c) or tagged with radio transmitters or other identifiers, (e) and released.

The research has many purposes and would benefit listed salmon and steelhead in different ways. In general, the purpose of the research is to gain current information on the status and productivity of various fish populations, collect data on migratory and exploitation (harvest) patterns, and develop baseline information on various population and habitat parameters in order to guide salmonid restoration strategies all of which are of use on their own, but most of which are being done in accordance with specific requirements of the of the U.S. Canada Pacific Salmon Treaty. The research would continue to benefit listed fish by helping managers set in-river and ocean harvest regimes so that they have minimal impacts on listed populations, prioritize projects in a way that gives maximum benefit to listed species, and design strategies and activities to help recover them. The CRITFC does not intend to kill any of the fish being captured, but a small percentage may die as an unintended result of the research activities.

Permit 1382–Modification 1

The United States Geological Survey (USGS) is seeking a modification to Permit 1382 to take juvenile threatened MCR steelhead during the course of research designed to assess bull trout populations and life history and habitat characteristics in the Umatilla River, Oregon. Under permit 1382, the USGS is already conducting this type of research in the Wallawa River, Oregon. The researchers intend to use a variety of techniques to capture, mark, and monitor bull trout in the Umatilla River. The techniques that will affect MCR steelhead are snorkel surveys, backpack electrofishing, seining, trap netting, minnow trapping, and screw trapping. During the snorkeling exercise, the fish will simply be observed. Any MCR steelhead captured during the other operations will be counted and immediately released downstream from their capture sites.

The purpose of the research is to tie fish and population health (for bull trout) to habitat quality and land use in the Umatilla subbasin and thus assist in the process of recovery planning. MCR steelhead will benefit from this research because many of the habitat features bull trout require are also important to steelhead and therefore any improvement in those features for the purposes of recovering bull trout will be of help to the local depressed steelhead populations as well. The researchers do not intend to kill any of the listed fish being captured, but a small percentage may die as an unintended result of the research activities.

Permit 1403

The NWFSC is requesting a 5–year permit to annually take juvenile threatened SR spring/summer chinook salmon (natural); juvenile threatened SR steelhead; and juvenile threatened MCR steelhead at various places in the Salmon River subbasin, Idaho, and the John Day River subbasin in Oregon. The research encompasses two studies: Assessment of Three Alternative Methods of Nutrient Enhancement (Salmon Carcasses, Carcass Analogues, and Nutrient Pellets) on Biological Communities in Columbia River Tributaries, and Utilization of Nutrients from Spawning Salmon by Juvenile Chinook Salmon and Steelhead in the Columbia and Snake River Basins. Under these studies, the fish would variously be (a) captured (using seines, nets, traps and, possibly, electrofishing equipment) and anesthetized; (b) measured and weighed; (c) held for a time in enclosures in the stream from which they are captured; and (d) released. Both projects call for some juvenile listed fish to be intentionally killed as part of the research. It is also likely that a small percentage of the fish being captured would unintentionally be killed during the process. In addition, tissue samples would be taken from adult carcasses found on streambanks.

The research has many purposes and would benefit listed salmon and steelhead in different ways. In general, the purpose of the research is to (a) learn how salmonids acquire nutrients from the bodies of dead spawners and test three methods of using those nutrients to increase growth and

survival among naturally produced salmonids and (b) determine the extent to which juvenile steelhead and chinook use marine-derived nutrients and learn more about the relationships between juvenile salmonid body size, population density, and nutrient uptake. The research will benefit the fish by helping managers use nutrient enhancement techniques to help recover listed salmonid populations. Moreover, managers will be able to gain a broader understanding of the role marine-derived nutrients play in ecosystem health as a whole. This, in turn, will help inform management decisions and actions intended to help salmon recovery in the future.

Permit 1406

The NWFSC is requesting a 5–year permit to annually take juvenile (and precocious male) threatened SR spring/summer chinook salmon (naturally produced) and juvenile threatened SR steelhead at various places in the Salmon River drainage in Idaho, at Little Goose Dam on the lower Snake River, and at multiple subbbasins in Northeast Oregon, Southeast Washington, and Idaho including the Clearwater and Grande Ronde Rivers. The research is largely a continuation of two long-term, ongoing studies formerly conducted under permits 852 and 1056; the studies have been in place for more than 10 years. They are: Monitoring the Migrations of wild Snake River Spring/summer Chinook Salmon Smolts and Monitoring and Evaluating the Genetic Characteristics of Supplemented Salmon and Steelhead. Under these studies, the listed fish would be variously captured (using seines, dip nets, and electrofishing), re-captured at a smolt bypass facility, anesthetized, tagged with PIT tags or otherwise marked, tissue sampled, weighed, measured, and released. Both projects call for some juvenile listed fish to be intentionally killed as part of the research. It is also likely that a small percentage of the fish being captured would unintentionally be killed during the process.

The research has many purposes and would benefit listed salmon and steelhead in different ways. In general, the purpose of the research is to continue monitoring juvenile out migration behavior and the effects of supplementation among steelhead spring/summer chinook salmon populations in Idaho. The research will benefit the fish by continuing to supply managers with the information they need to (a) budget water releases at hydropower facilities in ways that will help protect migrating juveniles, and (b) use hatchery programs to conserve listed species.

Permit 1421

The USFWS in Vancouver, WA is requesting a 3–year permit to annually take adult and juvenile endangered SR sockeye salmon; adult and juvenile endangered UCR spring chinook salmon (natural and artificially propagated); adult and juvenile endangered UCR steelhead (natural and artificially propagated); adult and juvenile threatened SR fall chinook salmon; adult and juvenile threatened SR spring/summer chinook salmon (natural and artificially propagated); adult and juvenile threatened SR steelhead; adult and juvenile threatened MCR steelhead; adult and juvenile threatened LCR chinook salmon; adult and juvenile threatened LCR steelhead; and adult and juvenile threatened CR chum salmon during the course of a study in the Franz Lake National Wildlife Refuge on the Lower Columbia River. The USFWS proposes to capture (using boat and backpack electrofishing, fyke nets, and minnow traps), anesthetize, measure, check for tags, mark, sample for stomach content, and release listed salmonids.

The objectives of the study are to (1) document fish species in the refuge, (2) evaluate fish distribution relative to habitat features, and (3) describe fish diets in the refuge. The study will be coordinated with a mosquito control study conducted by the Oregon Cooperative Fish and Wildlife Research Unit. The study will benefit listed fish by generating information on the effects of mosquito control on salmonids and salmonid prey species, and the spacial and temporal relations among fish distribution, fish diets, and areas typically treated to control mosquitos. The USFWS does not intend to kill any of the listed fish being captured, but a small percentage may die as an unintended result of the research activities.

Permit 1422

The USFS is requesting a 5–year permit to annually take juvenile endangered UCR chinook salmon, juvenile endangered UCR steelhead, and juvenile threatened MCR steelhead during research activities taking place at various points in the Yakima, Methow, Entiat, and Wenatchee River drainages in Washington State. The fish would be captured (using minnow traps, hook-and-line angling, and electrofishing equipment), identified, and immediately released. The purpose of the research is to determine fish distribution in the subbasins listed above. The research will benefit the fish by giving land managers information they need in order to design forest management activities (e.g., timber sales, grazing plans, road building) in such a way as to conserve listed species. The USFS does not intend to kill any of the listed fish being captured, but a small percentage may die as an unintended result of the research activities.

Permit 1423

The USFWS is requesting a 3–year permit to annually take juvenile endangered UCR steelhead and juvenile endangered UCR chinook (naturally propagated) at points near Icicle Creek and Entiat River National Fish Hatcheries in Washington State. The fish would be captured (using seines, minnow traps, a screw trap, electrofishing, and hook-and-line angling), anesthetized, measured, and killed. It is also likely that a small number of the fish being captured–over and above those that would be sacrificed would unintentionally be killed. Several samples would then be taken from the fish and used to determine whether any disease–viral or bacterial– was present in the population.

The purpose of the research is to determine if there are any interactions between wild and hatchery fish in terms of disease transmission and to gather baseline information on pathogen presence in the local fish populations. The research would benefit listed fish by increasing our knowledge of disease presence and transmission in the UCR and thereby help managers reduce the risks associated with those diseases.

Permit 1426

The Bonneville Power Administration (BPA) is requesting a 5–year permit to annually take adult threatened MCR steelhead at Roza Dam on the Yakima River, WA. Under this study, the adult MCR steelhead would be captured at the adult monitoring and broodstock collection facility on the adult ladder at Roza Dam, anesthetized, radio-tagged, allowed to recover, and released.

The purpose of the research is to determine the movements (migration timing, holding area locations, migration routes, etc.) of the steelhead in the upper Yakima watershed. The information would benefit the fish because it would be used to help develop supplementation plans and passage improvements as well as protecting and enhancing mainstem and tributary habitats the MCR steelhead use. The BPAdoes not intend to kill any of the listed fish being captured, but a small percentage may die as an

unintended result of the research activities.

Permit 1427

The Oregon Department of Environmental Quality (ODEQ) in Eugene, OR is requesting a 5–year permit to annually take adult and juvenile threatened LCR chinook salmon, adult and juvenile threatened UWR chinook salmon, adult and juvenile threatened LCR steelhead and adult and juvenile threatened UWR steelhead associated with a study in the Willamette River, OR. The ODEQ proposes to capture (using boat electrofishing), count, and release listed salmonids.

The objectives of the study are to (1) describe the relationship between mercury in fish tissue and in the water column in order to develop a site-specific bioaccummulation factor, (2) describe the relationship between methlymercury in water and total mercury in water and sediment, and (3) begin to identify and quantify mercury sources and loadings in the Willamette River system. The study is designed to fulfill the requirement mandated by the Federal Clean Water Act and will benefit listed fish by helping reduce mercury loading in the Willamette River system. The ODEQ does not intend to kill any of the listed fish being captured, but a small percentage may die as an unintended result of the research activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30 day comment period. NMFS will publish notice of its final actions in the **Federal Register**.

Dated: April 23, 2003.

Phil Williams,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–10674 Filed 4–29–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Request for Comments on the Draft Feasibility Report and Environmental Impact Statement/Environmental Impact Report for the Lower Cache Creek, Yolo County, CA, City of Woodland and Vicinity, for Potential Flood Damage Reduction Report

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

ACTION: Extension of comment period.

SUMMARY: The Corps of Engineers is extending the comment period for the draft ''Feasibility Report and Environmental Impact Statement/ Environmental Impact Report for the Lower Cache Creek, Yolo County, CA, City of Woodland and Vicinity, for Potential Flood Damage Reduction Report.'' This extension will provide interested persons with additional time to prepare comments.

DATES: Consideration will be given only to comments that are received on or before June 4, 2003.

ADDRESSES: Send comments to Patti Johnson, USACE, Sacramento District (CESPK–PD), 1325 J Street, Sacramento, CA 95814–2922 or to Karen Enstrom, Department of Water Resources, Division of Flood Management, 3310 El Camino Ave., Sacramento, CA 95821–6340. *See* **SUPPLEMENTARY INFORMATION** section for electronic filing address.

FOR FURTHER INFORMATION CONTACT: Patti Johnson, USACE, Sacramento, California at (916) 557–6611; or Karen Enstrom, Department of Water Resources, Division of Flood Management at (916) 574–0372.

SUPPLEMENTARY INFORMATION: On March 21, 2003 we published in the **Federal Register** (67 FR 13907) the ''Draft Feasibility Report and Environmental Impact Statement/Environmental Impact Report for the Lower Cache Creek, Yolo County, CA, City of Woodland and Vicinity, for Potential Flood Damage Reduction Report.'' Comments regarding the reports were required to be received on or before May 5, 2003. During the comment period, we received requests to extend the comment period.

In response to these requests, we are extending the comment for the reports through June 4, 2003.

Electronic Filing Addresses: You may submit comments by E-mail to either *patti.p.johnson@usace.army.mil* or to *kenstrom@water.ca.gov.*

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–10685 Filed 4–29–03; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Chief of Engineers Environmental Advisory Board; Meeting

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

ACTION: Notice of open meeting.

SUMMARY: In accordance with 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the forthcoming meeting. The meeting is open to the public.

Name of Committee: Chief of Engineers Environmental Advisory Board (EAB).

Date: May 15, 2003.

Location: Doubletree Hotel at Lloyd Center, 1000 NE Multnomah Blvd., Portland, Oregon 97232 (503) 281–6111.

Time: 9 a.m. to 3 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Norman Edwards, Headquarters, U.S. Army Corps of Engineers, Washington, DC 20314–1000; Ph: 202–761–4559.

SUPPLEMENTARY INFORMATION: The Board advises the Chief of Engineers on environmental policy, identification and resolution of environmental issues and missions, and addressing challenges, problems and opportunities in an environmentally sustainable manner. The theme of this meeting is the environmental aspects of the dams on the Snake River, fish passage, Columbia River channel improvement, and the Columbia Estuary Project. It is emphasized that this is not a public meeting on these subjects but will focus on selected aspects that may have national application. The intent of this meeting is to present an opportunity for the Chief of Engineers to receive the views of his EAB. Time will be provided, however, for public comment. Each speaker will be limited to no more than three minutes in order to accommodate as many people as possible within the limited time available. If you wish to receive electronic notice of future meetings you may subscribe to a list server at:

http://www.usace.army.mil/inet/functions/cw/hot_topics/eab.htm.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–10687 Filed 4–29–03; 8:45 am]

BILLING CODE 3710–92–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

FOIA Fee Schedule Update

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice.

SUMMARY: The Defense Nuclear Facilities Safety Board is publishing its annual update to the Freedom of Information Act (FOIA) Fee Schedule pursuant to 10 CFR 1703.107(b)(6) of the Board's regulations.

EFFECTIVE DATE: May 1, 2003.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Pusateri, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004–2901, (202) 694–7060.

SUPPLEMENTARY INFORMATION: The FOIA requires each Federal agency covered by the Act to specify a schedule of fees applicable to processing of requests for agency records. 5 U.S.C. 552(a)(4)(i). On March 15, 1991, the Board published for comment in the **Federal Register** its proposed FOIA Fee Schedule. 56 FR 11114. No comments were received in response to that notice and the Board issued a final Fee Schedule on May 6, 1991.

Pursuant to 10 CFR 1703.107(b)(6) of the Board's regulations, the Board's General Manager will update the FOIA Fee Schedule once every 12 months. Previous Fee Schedule updates were published in the **Federal Register** and went into effect, most recently, on June 1, 2002, 67 FR 38649.

Board Action

Accordingly, the Board issues the following schedule of updated fees for services performed in response to FOIA requests:

Defense Nuclear Facilities Safety Board Schedule of Fees for FOIA Services, (Implementing 10 CFR 1703.107(b)(6))

Search or Review Charge: $59.00 per hour.

Copy Charge (paper): $.05 per page, if done in-house, or generally available commercial rate (approximately $.08 per page).

Copy Charge (3.5″ diskette): $5.00 per diskette.

Copy Charge (audio cassette): $3.00 per cassette.

Duplication of Video: $25.00 for each individual videotape; $16.50 for each additional individual videotape.

Copy Charge for large documents (*e.g.*, maps, diagrams): Actual commercial rates.

Dated: April 28, 2003.

Kenneth M. Pusateri,

General Manager.

[FR Doc. 03–10584 Filed 4–29–03; 8:45 am]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 30, 2003.

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.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 24, 2003.

John D. Tressler,

Leader, Regulatory Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.

Title: Projects with Industry Compliance Indicator Form and Annual Evaluation Plan.

Frequency: Annually.

Affected Public: Businesses or other for-profit; not-for-profit institutions; State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 350.

Burden Hours: 13,500.

Abstract: The Projects with Industry compliance indicators are based on program regulations. The regulations: (1) Require that each grant application include a projected average cost per placement for the project (379.21(c)); (2) designate two compliance indicators as ''primary'' and three compliance indicators as ''secondary'' (379.51(b) and (c)); (3) require a project to pass the two ''primary'' compliance indicators and any two of the three ''secondary'' compliance indicators to receive a continuation award (379.50); and (4) change the minimum performance levels for three of the compliance indicators (379.53(a)(1)—Placement Rate; 379.53(a)—Average Change in Earnings; and 379.53(b)(3)—Average Cost per Placement). Section 379.21 of the program regulations contains the specific information the applicant must include in its grant application.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2261. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov*. Requests may also

be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

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

[FR Doc. 03–10600 Filed 4–29–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, Federal Student Aid (FSA) of the U.S. Department of Education publishes this notice of a new system of records for the FSA Students Portal. FSA is requesting to modify the existing FSA Students Portal in order to bring together in one, simple Web site all the information and productivity tools relevant to FSA's customers. This modification will assist FSA's customers in making informed financial aid decisions by allowing them to customize information based upon their own criteria.

DATES: The Department seeks comment on the new system of records described in this notice, in accordance with the requirements of the Privacy Act. We must receive your comments on the proposed routine uses for this system of records included in this notice on or before May 30, 2003.

The Department has filed a report describing the new system of records covered by this notice with the Chairman of the Senate Committee on Governmental Affairs, the Chairman of the House Committee on Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on April 25, 2003. This new system of records will become effective at the later date of—(1) the expiration of the 40-day period for OMB review on June 4, 2003 or (2) May 30, 2003, unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments on the proposed routine uses to Adam Essex, Federal Student Aid, U.S. Department of Education, 830 First St., NE., Rm 31K1, Washington, DC 20202. If you prefer to send your comments through the Internet, use the following address: *Comments@ed.gov.* You must include the term ''FSA Students Portal'' in the subject line of your electronic message.

During and after the comment period, you may inspect all comments about this notice at Federal Student Aid (FSA), U.S. Department of Education, 830 First St., NE., Rm 31K1, Washington, DC 20202, between the hours of 8:30 a.m. and 5 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please refer to the information below.

FOR FURTHER INFORMATION CONTACT: Adam Essex, Telephone: (202) 377–3515. 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 contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires the Department to publish in the **Federal Register** this notice of a new system of records maintained by the Department. The Department's regulations implementing the Privacy Act of 1974 are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act of 1974 (Privacy Act), 5 U.S.C. 552a, applies to a record about an individual that is retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a ''record'' and the system, whether manual or computer-driven, is called a ''system of records.'' The Privacy Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports to the Office of Management and Budget (OMB) whenever the agency publishes a new or ''altered'' system of records.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Authority: 40 U.S.C. 1425(b).

Dated: April 25, 2003.

Theresa S. Shaw,

Chief Operating Officer, Federal Student Aid.

For reasons discussed in the preamble, the Chief Operating Officer of Federal Student Aid (FSA) of the U.S. Department of Education publishes a notice of a new system of records to read as follows:

18–11–14

SYSTEM NAME:

FSA Students Portal.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION(S):

(1) Virtual Data Center (VDC) (operated by CSC, Inc.), Meriden Data Center, 71 Deerfield Lane, Meriden, CT 06450.

(2) Students Portal Database (operated by XAP Corp.) 3534 Hayden Ave., Culver City, CA 90232.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any user with Internet accessibility that is interested in exploring financial aid information and chooses to personalize the ''Students Portal'' an Internet Portal web site (hereafter ''the Web site''). The personalization functionality is referred to as ''My FSA'' (*http://www.studentaid.ed.gov*).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records will include the information listed below. It is optional for the user to enter this information. This list is not all-inclusive, but it is a sample of the types of information that may be entered by the user. (*See* Appendix at the end of the Notice for a listing of the types of records collected). Some of the information requested in the Web site includes such information as: User's name; User's address(es); User's e-mail; User's personal information, such as social security number, date of birth, marital status, and telephone number; User's high school information such as current grade level, courses taken, grades, and activities; User's educational information, such as educational level, degree, etc.; User's interests such as job interests, values, and college preferences; Scores from User's standardized tests such as SAT or ACT; Parent's information such as address and veteran status; Spouse's information such as name and address; User's employment/work history; and User's bookmarks (URL's) Students will have the option of choosing the data to enter into the text fields. The Web site also includes a short survey where information about user experiences and opinions of the FSA Students Portal is stored for future Web site enhancement. While the surveys are not intended to be able to identify a particular user, some users may choose to include personally identifiable information in some text fields. (For instance if they have a question that requires a response.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title IV of the Higher Education Act of 1965, as amended, 40 U.S.C. 1425 (b), and 44 U.S.C. Chapter 35.

PURPOSE(S):

The primary reason for storing the records of users of the Web site is to provide them with better service. The information stored by the Web site will be used for the following reasons:

- To allow the Web site to provide information relevant and targeted to the user (information about schools, loans, organizations, etc.)
- To assist with filling out applications to colleges and universities (*i.e.*, enter the information only once)
- To ''prepopulate'' the electronic Free Application for Federal Student Aid (FAFSA)
- To store personal information so that it can be retrieved later without having to start over (such as schools, programs, majors, loan information of interest to a specific user)
- Some fields are used to help indicate which of the records are active (such as last modified date)
- Some fields are used for security reasons (*e.g.* User ID, password, and password expiration).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice (DOJ) and the Office of Management and Budget if the Department seeks advice regarding whether records maintained in the system of records are required to be released under the FOIA and the Privacy Act of 1974.

(2) *Disclosure to the DOJ.* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(3) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(4) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the following parties is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any of its components; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her official capacity where the Department of Justice (DOJ) is requested to provide or arrange for representation of the employee;

(iv) Any Department employee in his or her individual capacity where the Department has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the Department of Justice (DOJ).* If the Department determines that disclosure of certain records to the DOJ, or attorneys engaged by DOJ, is relevant and necessary to litigation or ADR, and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the DOJ.

(c) *Adjudicative disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness is relevant and necessary to the litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(6) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(7) *Disclosure for Use By Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local or other agencies responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative or prosecutorial responsibility within the entity's jurisdiction.

(8) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, Executive order, rule, regulation, or order issued pursuant thereto.

(9) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(10) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(11) *Labor Organization Disclosure.* The Department may disclose records from this system of records to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.

(12) *Disclosure to Providers of Web-based Postsecondary Education Admissions Applications.* The Department may disclose records in this system of records to providers of Web-based postsecondary educational institution admissions applications so that users of the Web site may ''pre-populate'' their college or university admissions applications with their own registration information that was previously saved on the Web site. (See Appendix at the end of the Notice where registration information is identified as ''Data Collected in Students Portal Modules'').

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Not applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISCLOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A majority of the Student data will be stored in a database (SQL Server 2000) maintained at XAP Corp. The student data is also stored in an Oracle database at the Virtual Data Center (VDC). Each location includes safeguards, including physical security of the server room, firewalls, etc.

RETRIEVABILITY:

Each record in this system is indexed and retrieved by a user name and password that is created by the user of the *http://www.studentaid.ed.gov* Web site.

SAFEGUARDS:

All users of this system will have a unique user ID with a personal identifier.

This system does not use persistent cookies (data that a web server causes to be placed on a user's hard drive) to implement personalization. It is the policy of the Department to prohibit the use of persistent cookies on U.S. Department of Education web sites except where: there is a compelling need; there are appropriate safeguards in place; the use is personally approved by the Secretary of Education; and there is clear and conspicuous notice to the public.

All physical access to the U.S. Department of Education web site and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the U.S. Department of Education offers a high degree of resistance to tampering and circumvention. This security system limits data access to the Department, and contract staff on a ''need to know'' basis, and controls individual users' ability to access and alter records within the system.

RETENTION AND DISPOSAL:

FSA Students Portal customers can remove any information about their web preferences (*i.e.*, the subjects, levels of education, types of resources, and audience-targeted materials in which they are interested), as well as any bookmarks or saved searches they have stored on the Department's web pages. U.S. Department of Education customers, however, cannot delete their names, zip codes, or e-mail addresses from the system (although they can replace it with other information). The system, however, automatically will purge any unused accounts after a certain period of disuse. National Archives and Records Administration General Records Schedule 20, Item 1.c provides disposal authorization for electronic files and hard-copy printouts created to monitor system usage, including, but not limited to, log-in files, password files, audit trail files, system usage files, and cost-back files used to assess charges for system use. Records will be deleted or destroyed when the agency determines they are no longer needed for administrative, legal, audit, or other operational purposes.

SYSTEM MANAGERS AND ADDRESS:

General Manager, Students Channel, Federal Student Aid, U.S. Department of Education, 830 First Street, NE., Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, you may gain access to the system by entering your user name and password to the *http://www.studentaid.ed.gov* Web site. Individuals may also present their requests in writing or in person by contacting the system administrator through the *fsa.portals@ed.gov* e-mail address or at the above address. If you

wish to determine whether a record exists about you in the system of records, provide the system manager with your name, date of birth and social security number. Your request for notification must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

Users will be granted access to their own record via the *http://www.studentaid.ed.gov* Web site when they are able to provide their User ID and password. Otherwise, users wishing to gain access to records in this system of records must contact the system manager at *fsa.portals@ed.gov* e-mail address or at the above address and follow the steps outlined in the Notification procedure. Request to access a record must also reasonably specify the record contents sought and otherwise meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to change the content of a record in this system of records, you may gain access to the system and alter the record via the *http://www.studentaid.ed.gov* Web site and using the system edits and update function. Otherwise, you must contact the system manager at *fsa.portals@ed.gov* e-mail address or at the above address and follow the steps outlined in the Notification procedure. Requests to amend a record must also reasonably identify the record, specify the information being contested, and otherwise meet the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from customers who use the *http://www.studentaid.ed.gov* Web site and complete the optional web site personalization referred to as ''My FSA''. The ''My FSA'' personalization form provides the information contained within the system.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix—FSA Students Portal Fields

Attribute (Description)

Profile
- User Name
- First Name
- Last Name
- email address
- Password
- Password Hint
- Fax Number
- Prefix
- Suffix
- Social Security Number
- Affiliation
- Telephone Number
- Date Created
- Date Modified
- Date Password Expires
- Date of Birth
- Education Level
- State Residence
- State School
- School Name
- Major
- Country
- Modified By
- Password Hint Question
- Password Hint Answer

Edpack (Edpack stores favorites for the user)
- Applications List (List of College Applications in process/submitted)
- College List (Store a list of Colleges the user is interested in from College Search/Wizard)
- Career List (Store List of interesting Careers from the Self Assessment Tool)
- Financial Aid List (Store Scholarships, Loans, and Cost of attendance Info for schools in the Edpack)
- Calendar Events (See Calendar Events Section Below)
- User Profile (Access User data from Applications)
- Bookmarks list (Stores a list of links/bookmarks for the user (some generated by the system, others entered by the user))

Self Assessment
- JobInterest (Stores a list of jobs the user finds interesting, the list is dynamic (database driven)

These describe how it applies to me
- MeTools (like to work with animals, tools, or machines)
- MeMath (study math or science)
- MeCreate (creative activities)
- MeHelpOthers (Helping others)
- MeLeadership (Lead and pursuade)
- MeOrdered (work in an orderly way)

These describe how I compare to others my age
- CompTools (like to work with animals, tools, or machines)
- CompMath (study math or science)
- CompCreate (creative activities)
- CompHelp (Helping others)
- CompLeadership (Lead and pursuade)
- CompOrdered (work in an orderly way)

To what extent do I value
- ValueTools (like to work with animals, tools, or machines)
- ValueScience (study math or science)
- ValueCreate (creative activities)
- ValueHelp (Helping others)
- ValueLeadership (Success in politics,leadership, or business)
- ValueSuccess (success in business)

How do I see myself
- AmPractical (like to work with animals, tools, or machines)
- AmPrecise (study math or science)
- AmArtistic (creative activities)
- AmHelpful (Helping others)
- AmAmbitious (Lead and pursuade)
- AmOrderly (work in an orderly way)

These are true of me
- TruePractical (like to work with animals, tools, or machines)
- TruePrecise (study math or science)
- TrueArtistic (creative activities)
- TrueHelpful (Helping others)
- TrueAmbitious (Lead and pursuade)
- TrueOrderly (work in an orderly way)

Career Finder Interest Areas
- Realistic
- Investigative
- Artistic
- Social
- Enterprising
- Conventional
- Industry (Pick an Industry of interest from a list)
- General Work Activities (Pick from a list)

Abilities
- Knowledge-Based
- Physical Dexterity
- Physical Strength
- Sensory Abilities
- Work Environment (Indoor/Outdoor)

College Finder/College Matching Wizard
- CollegeType (2 year/4year/trade)
- CollegePublic (Public or Private)
- CollegePublicWeight (How important is this factor)
- CollegeState1 (Location)
- CollegeState2
- CollegeState3
- CollegeZip
- CollegeCityType (Small Town/Big City)
- CollegeCityTypeWeight (How important is this factor)
- CollegeSize
- CollegeSizeWeight (How important is this factor)
- ClassSizeFr (Class size freshman year)
- ClassSizeUpper (Class size for upper division courses)
- StudentFacultyRatio
- Major1 (Pick from a list)
- Major2
- Major3
- GPArange
- ACTscoreRange
- SATscoreRange
- InStateCost (Pick from a range of costs)
- OutStateCost
- HelpOffCampHousing
- OnCampusHousing
- OCHweight (How important is this factor)
- Sport1 (Sports that interest the user)
- Sport2
- Sport3
- FratSorority (Does the campus have Fraternities/Sororities)
- Fsweight (How important is this factor)
- StActivity (Choose from a list)
- Coed
- ReligousAffiliation
- HBC (Historically Black college)

Scholarship Search
- A majority of the fields used here are already captured in the college application (Personal Info, Address Info, HS Info, College Info, Testing Info, Parents Info)
- MaritalStatus
- Heritage1 (Choose up to 4 from a list)
- Heritage2
- Heritage3
- Heritage4
- CurrentGradeLevel
- EnrollmentStatus
- Activities List (Pick from a number of activities grouped by category (Business/

Corp., Club Affiliation, Disability, Hobbies, Military Affiliation, National Merit, Athletics, Union Affiliation, Misc., Career Objective, or Programs of Study))
- ParentVeteran? (Is either parent a Veteran)
- ParentDisabledInMilitary?
- ParentKilledInMilitary?
- HouseholdIncome (Annual)

Financial Aid Wizard For each School tracked in the user's EDpack
- Tuition
- RoomBoard
- Fees
- Books
- OtherExpense

Used in the EFC calculation
- StOfResidence
- Veteran?
- SchoolsOfAttendance
- ChildSupport?
- OtherDependants?
- Orphan?
- PeopleInHousehold
- CollegeStudentIn House
- CompletedTaxReturn?
- 1040EZ Able to file 1040A or 1040EZ)
- AGI (Adjusted Gross Income)
- IncomeTax
- Exemptions
- YouWages
- SpouseWages
- WorksheetA
- WorksheetB
- WorksheetC
- CurrentSavings
- NetWorthInvestments
- NetWorthFarms
- EFC (Expected Family Contribution)

For each School tracked in Edpack
- Scholarship (Amount available in outside scholarships)
- PellGrant (Amount available from Pell Grant)
- StScholarshipGrant
- InstitutionalGrant
- Perkins
- DirectLoan
- WorkStudy

Events/Calendar
- Title
- Detail
- Category
- StartDate
- StartTime
- EndDate
- EndTime

[FR Doc. 03–10641 Filed 4–29–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Availability of the Draft Environmental Assessment Addendum for Disposition of Additional Waste at the Paducah Gaseous Diffusion Plant

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE), announces the availability of the Draft Environmental Assessment (EA) Addendum for Disposition of Additional Waste at the Paducah Site (DOE/EA–1339A) for public review and comment. The Draft EA Addendum has been prepared in accordance with the requirements of the National Environmental Policy Act of 1969 as amended (NEPA) (42 U.S.C. 4321 *et seq.*); Council on Environmental Quality regulations implementing NEPA, 40 CFR parts 1500–1508; and DOE NEPA Implementing Procedures, 10 CFR part 1021.

The Draft EA Addendum evaluates the potential environmental impacts associated with transportation of waste to disposal facilities at various locations throughout the United States. The Draft EA Addendum also evaluates the potential environmental impacts associated with the no action alternative and enhanced on-site storage alternative.

The public is invited to comment on the Draft EA Addendum during the public comment period. All comments received will be considered in preparation of the final EA Addendum. Late comments will be considered to the extent practicable.

DATES: The review period for the Draft EA Addendum begins May 4, 2003, and ends June 4 or 14 days from the date of this notice, whichever is later. Comments postmarked after that date will be considered to the extent practicable. One public meeting to discuss issues and receive oral comments on the Draft EA Addendum will be held on May 13, 2003, at 6 p.m. C.D.T. at the DOE Environmental Information Center, Barkley Centre, 115 Memorial Drive, in Paducah, Kentucky. The public meeting will provide the public with an opportunity to present comments, ask questions, and discuss concerns with DOE officials regarding the Draft EA Addendum. Specific information regarding the public meeting can be obtained by calling 1–270–441–5204, writing to the address above, or electronically.

ADDRESSES: Comments on the Draft EA Addendum may be submitted by mail: U.S. Department of Energy, Paducah Site Office, Attn: Mr. Gary Bodenstein, PO Box 1410, Paducah, KY 42001, by fax (1–270–441–6801), or electronically (*BodensteinGW@oro.doe.gov*).

Copies of the Draft EA Addendum may also be obtained by contacting Mr. Gary Bodenstein by any of the means described above. The Draft EA Addendum is available for review at the U.S. Department of Energy Environmental Information Center, Barkley Center, 115 Memorial Drive, in Paducah, Kentucky. The Draft EA Addendum is also available for review at the U.S. Department of Energy Public Reading Room at 230 Warehouse Road, Oak Ridge, TN 37830.

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, telephone 202–586–4600, or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION: The EA Addendum is tiered from the recently completed Environmental Assessment for Waste Disposition Activities at the Paducah Site, Paducah Kentucky, DOE/EA–1339. The Draft EA Addendum evaluates DOE's proposed disposition activities for legacy and future-generated low-level waste from the Paducah Site in Paducah, Kentucky. The EA Addendum is needed because DOE has identified 17,600 m^3 of additional low-level waste currently stored at the Paducah Site that needs to be dispositioned. The additional waste would be transported to various disposal locations throughout the United States by truck, rail, or inter-modal shipment. Off-site treatment and disposal locations for waste disposition include facilities in Nevada, Utah, Texas, Washington, Idaho, New Mexico, and Tennessee. The Draft EA Addendum also evaluates the no action alternative. Under this alternative, DOE would not perform disposition activities except for those needed for standard waste management and maintenance. No disposal of the existing and projected quantities of waste would occur. DOE would continue to store such waste. Ongoing non-Comprehensive Environmental Response, Compensation, and Liability Act waste management operations would continue. The Draft EA Addendum also evaluates the alternative of enhanced on-site storage of the waste.

David R. Allen,

NEPA Compliance Officer.

[FR Doc. 03–10642 Filed 4–29–03; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–281–001]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

April 24, 2003.

Take notice that on April 21, 2003, Columbia Gas Transmission Corporation (Columbia) tendered for filing additional information and supporting work papers in compliance with the Commission's order issued March 31, 2003, in this proceeding.[1]

Columbia states that copies of its filing have been mailed to all parties on the official service lest in Docket No. RP30–281.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings.*See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: May 5, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–10624 Filed 4–29–03; 8:45 am]

BILLING CODE 6717–01–P

[1] Columbia Gas Transmission Corp., 102 FERC ¶ 61,348 (2003).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–282–001]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

April 24, 2003.

Take notice that on April 21, 2003, Columbia Gas Transmission Corporation (Columbia) tendered for filing additional information and supporting work papers in compliance with the Commission's order issued March 31, 2003, in this proceeding.[1]

Columbia states that copies of its filing have been mailed to all parties on the official service list in Docket No. RP03–282.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: May 5, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–10625 Filed 4–29–03; 8:45 am]

BILLING CODE 6717–01–P

[1] Columbia Gas Transmission Corp., 102 FERC ¶ 61,349 (2003).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–100–000]

Norteno Pipeline Company and OkTex Pipeline Company; Notice of Application

April 24, 2003.

Take notice that on April 15, 2003, Norteno Pipeline Company (Norteno) and OkTex Pipeline Company (OkTex), both located at 100 West Fifth Street, Tulsa, Oklahoma 74103, filed with the Federal Energy Regulatory Commission (Commission) in Docket No. CP03–100–000, an application pursuant to Section 3 of the Natural Gas Act (NGA) and part 153 of the Commission's regulations for authorization permitting OkTex to succeed to all of Norteno's existing authorizations to operate border crossing facilities for the import and export of natural gas, as more fully described in the application. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659.

On March 31, 2003, Applicants filed a related application, in Docket No. CP03–76–000 requesting authorization for Norteno to abandon and OkTex to acquire Norteno's interstate facilities including three pipelines that cross the United States/Mexico International Boundary line at El Paso Texas (Del Norte facilities). Norteno and OkTex state that they are both wholly owned subsidiaries of ONEOK, Inc. and the transfer of facilities is said to be in the nature of a corporate restructuring. Accordingly, Applicants herein seek succession by OkTex to Norteno's Section 3 authority. Applicants state that they do not seek any change in the terms and conditions of Norteno's existing import and export authority apart from the succession of OkTex as the holder of that authority.

On April 15, 2003, Applicants filed another related application in Docket No. CP03–99–000 to allow OkTex to also succeed to Norteno's Presidential Permit related to the transferred border crossing facilities.

Any questions regarding this application should be directed to Vivian

C. Hale, Gabel & Gotwals, 1100 ONEOK Plaza, 100 West Fifth Street, Tulsa, Oklahoma 74103–4217, or call (918)595–4822 or FAX (918)595–4990.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project.

This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Protests and interventions may be filed electronically via the internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Comment Date: May 15, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–10618 Filed 4–29–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–76–000]

Norteno Pipeline Company and OkTex Pipeline Company; Notice of Application

April 24, 2003.

Take notice that on March 31, 2003, Norteno Pipeline Company (Norteno) and OkTex Pipeline Company (OkTex) (collectively, Applicants), both located at 100 West Fifth Street, Tulsa, Oklahoma 74103, filed with the Federal Energy Regulatory Commission (Commission) in Docket No. CP03–76–000, a joint application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act (NGA) and part 157 of the Commission's regulations for authorization for Norteno to abandon and OkTex to acquire and operate Norteno's interstate pipeline facilities located in Texas and New Mexico, as more fully described in the application. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659.

Applicants state that Norteno's system consists of two short pipelines that cross the Texas/New Mexico border (Southern Division facilities) and three pipelines that cross the United States/Mexico International Boundary line at El Paso Texas (Del Norte facilities). Norteno and OkTex are both wholly owned subsidiaries of ONEOK, Inc. The transfer of facilities is said to be in the nature of a corporate restructuring and will not result in any change or interruption in service to Applicant's shippers. The applicants state that upon approval of the authorization requested, OkTex will operate the facilities as part of its interstate pipeline system and will provide open access transportation service to shippers requesting service on these facilities pursuant to the terms and conditions of OkTex's FERC Gas Tariff. Since Norteno will then have no facilities in interstate commerce, Norteno requests the Commission to release it from all obligations under the NGA and Commission regulations and to cancel its tariffs.

On April 15, 2003, Applicants filed related applications in Docket Nos. CP03–99–000 and CP03–100–000 to allow OkTex to succeed to Norteno's existing Presidential Permit and Section 3 authority, respectively, related to the transferred border crossing facilities.

Any questions regarding this application should be directed to Vivian C. Hale, Gabel & Gotwals, 1100 ONEOK Plaza, 100 West Fifth Street, Tulsa, Oklahoma 74103–4217, or call (918)595–4822 or FAX (918)595–4990.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426,

a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project.

This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Protests and interventions may be filed electronically via the internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Comment Date: May 15, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–10619 Filed 4–29–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–99–000]

Norteno Pipeline Company and OkTex Pipeline Company; Notice of Application

April 24, 2003.

Take notice that on April 15, 2003, Norteno Pipeline Company (Norteno) and OkTex Pipeline Company (OkTex), both located at 100 West Fifth Street, Tulsa, Oklahoma 74103, filed with the Federal Energy Regulatory Commission (Commission) in Docket No. CP03–99–000, a joint application pursuant to Sections 153.15 through 153.17 of the Commission's regulations and Executive Order No. 10485, as amended by Executive Order No. 12038, for authorization permitting OkTex to succeed to Norteno's Presidential Permit, as more fully described in the application. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659.

On March 31, 2003, Applicants filed a related application, in Docket No. CP03–76–000 requesting authorization for Norteno to abandon and OkTex to acquire Norteno's interstate facilities including three pipelines that cross the United States/Mexico International Boundary line at El Paso Texas (Del Norte facilities). Norteno and OkTex state that they are both wholly owned subsidiaries of ONEOK, Inc. and the transfer of facilities is said to be in the nature of a corporate restructuring. Accordingly, Applicants herein seek succession by OkTex to Norteno's Presidential Permit. Applicants state that they do not seek any change in the terms and conditions of Norteno's existing Presidential Permit apart from the succession of OkTex as the holder of that authority.

On April 15, 2003, Applicants filed another related application in Docket No. CP03–100–000 to allow OkTex to also succeed to Norteno's Section 3 authority to operate the transferred border crossing facilities for the import and export of natural gas.

Any questions regarding this application should be directed to Vivian C. Hale, Gabel & Gotwals, 1100 ONEOK Plaza, 100 West Fifth Street, Tulsa, Oklahoma 74103–4217, or call (918)595–4822 or FAX (918)595–4990.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the

Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Protests and interventions may be filed electronically via the internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Comment Date: May 15, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–10621 Filed 4–29–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL00–95–045 and EL00–98–042]

San Diego Gas & Electric Company, Complainant, v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, Respondents: Investigation of Practices of the California Independent System Operator and the California Power Exchange; Notice of Technical Conference

April 24, 2003.

As directed by the Commission Order issued on March 26, 2003, in Docket No. EL00–95–045 and EL00–98–042, 102 FERC ¶ 61,317 (2003), the Federal Energy Regulatory Commission Staff is convening a technical conference to address issues concerning the information that will be submitted with generators' fuel cost allowance claims. Staff will issue an agenda the week of May 12, 2003. The conference will be held at FERC headquarters, 888 First Street, NE. Washington, DC, on May 22, 2003, beginning at 9 a.m.

For additional information concerning the conference, interested persons may contact Leonard Tao at *Leonard.Tao@ferc.gov* or Rahim Amerkhail at *Rahim.Amerkhail@ferc.gov*. No telephone communication bridge will be provided at this technical conference.

Magalie R. Salas,

Secretary.

[FR Doc. 03–10622 Filed 4–29–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP03–79–000, CP03–33–000, CP03–34–000 and CP03–35–000]

National Fuel Gas Supply Corporation; Wyckoff Gas Storage Company, LLC; Supplemental Notice of Intent To Prepare an Environmental Assessment for the Proposed National Fuel Gas Supply Corporation Line Z-67 Project and Request for Comments on Environmental Issues

April 24, 2003.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the National Fuel Gas Supply Corporation (National Fuel) Line Z-67 Project in Steuben County, New York.[1] This project is related to Wyckoff Gas Storage Company, LLC's (Wyckoff) proposed Wyckoff Gas Storage Project in Docket Nos. CP03–33–000, CP03–34–000 and CP03–35–000, involving construction and operation of natural gas storage facilities in Steuben County, New York. We [2] issued a notice of intent to prepare an EA for Wyckoff's project on February 10, 2003. The EA being prepared for the Wyckoff project will be expanded to include National Fuel's Line Z-67 Project. The facilities National Fuel proposes to abandon include about 6.8 miles of 8-inch-diameter pipeline (Line Z-67), one block valve, and two bridle valve connections. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Wyckoff provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

National Fuel states that it would abandon its facilities only if the Wyckoff Storage Project is developed. After completion of abandonment activities, Wyckoff would exercise its option to acquire National Fuel's right-of-way under the right-of-way agreements, subject to a reservation allowing National Fuel to use the right-of-way for a single pipeline. This would be consistent with the terms and conditions of the applicable right-of-way agreements. National Fuel's facilities that would be abandoned would consist of:

- 35,670 feet of 8-inch-diameter pipeline Line Z-67, would be abandoned in place near the Towns of Troupsburg and Jasper, Steben County, New York. Landowners request that the pipeline be removed. If pipeline sections are removed at the request of landowners, that work would be performed by Wyckoff. One block valve and two bridle valve connections would be abandoned by removal along Line Z-67.
- One 100-horsepower nonjurisdictional skid mounted field compressor would also be retired by removal.

The location of the project facilities is shown in appendix 1.[3]

Land Requirements for Construction

Abandonment of the proposed facilities would require less than 0.1 acre of land, and the work would be performed on National Fuel's existing right-of-way. At milepost (MP) 0.0, an approximate 5-foot by 15-foot bell hole would be dug over the existing trench line on the edge of an agricultural field in order to cut and remove the

[1] National Fuel's application was filed with the Commission under Section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

[2] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Web site at the ''FERRIS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to FERRIS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

aboveground block valve. At MPs 3.14 and 6.76, three bell holes would be dug at each site. Each bell hole would be about 5-foot by 5-foot over the existing trench line in order to cut and remove the bridle connection aboveground facilities. Additional land would be disturbed in areas where landowners want the old pipeline removed.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- soils
- land use
- cultural resources
- vegetation and wildlife
- endangered and threatened species
- polychlorinated biphenyls (PCB)

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Wyckoff. This preliminary list of issues may be changed based on your comments and our analysis.

- National Fuel's Line Z-67 would be abandoned in place unless requested to be removed by the landowners. Additional land would be disturbed where any landowners want the pipeline removed.
- Excavations would occur on the existing Line Z-67 pipeline right-of-way at MPs 0.0, 3.14, and 6.76 to allow workmen to access, cut, test for PCBs, and cap the existing pipeline.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas 2 Branch.
- Reference Docket No. CP03–79–000.
- Mail your comments so that they will be received in Washington, DC on or before May 27, 2003.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on ''Login to File'' and then ''New User Account.''

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (*see* appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

This notice is being sent to individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. It is also being sent to all identified potential right-of-way grantors.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208-FERC or on the FERC Internet Web site (*http://www.ferc.gov)*using the FERRIS link. Click on the FERRIS link, enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance with FERRIS, the FERRIS helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov*. The FERRIS link on the FERC Internet Web site also provides access to the texts of formal documents issued by the

[4] Interventions may also be filed electronically via the Internet in lieu of paper. *See* the previous discussion on filing comments electronically.

Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you too keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to*http://www.ferc.gov*/esubscribenow.htm.

Magalie R. Salas,

Secretary.

[FR Doc. 03–10620 Filed 4–29–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

April 24, 2003.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Applicant Type*: Amendment of License to Change Project Boundary.

b. *Project Nos.*: 2497–006 and 2771–006.

c *Date Filed:* April 17, 2003.

d. *Applicant:* Harris Energy and Realty Corporation.

e. *Name of Projects*: Mt. Tom Mill Project and Nonotuck Mill Project.

f. *Location:* The Mt. Tom Mill Project is located on the Holyoke Canal, in Hampden County, Massachusetts. The Nonotuck Mill is located on the Second Level Canal of the Holyoke Canal system off of the Connecticut River, in Hampden County, Massachusetts.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)-825 (r) and 799 and 801.

h. *Applicant Contact:* Mr. Ira Belsky, President, Harris Energy and Realty Corporation, 20 Water Street, Holyoke, Mass. 01040, (413) 536–6410. June Broadstone, Esq., Skadden, Arps, Slate, Meagher and Flom, 1440 New York Ave., NW., Washington, DC 20005, (202) 371–7772.

i. *FERC Contact:* Any questions on this notice should be addressed to Etta Foster at (202) 502–8769, or e-mail address: *etta.foster@ferc.gov*.

j. *Deadline for filing comments and/or motions*: May 12, 2003.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project(s). Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

k. *Description of Proposed Action*: The licensee proposes to donate and convey certain land and property not needed to operate, or maintain the projects to the New England Adolescent Research Institute, a Massachusetts not-for-profit corporation.

P–2497 consists of: (1) a gated intake with submerged trashracks located on the Second Level Canal, (2) a 230-foot-long , 8-foot-diameter steel penstock; (3) a single runner, Francis turbine directly coupled to a 500-kilowatt (kW) Westinghouse generator; (4) a 205-foot-long, 9-foot-wide by 6-foot-high arched, brick-lined tailrace tunnel; (5) a concrete gated outlet structure where the tailwater empties into a channel that leads to the Connecticut River; (6) a 0.6-kilovolt (kV), 240-foot-long transmission line, and a 13.8-kV, 90-foot-long transmission line and (7) appurtenant facilities.

P–2771 consists of: (1) a gated intake with submerged trashracks located on the second level canal; (2) a 10.5-foot-diameter penstock 225 feet long; (3) a 500-kW generating unit located in Nonotuck Mill building; (4) a two parallel 9-foot-wide by 9-foot-high arched brick-lined tailrace tunnel 190 feet long extending from the draft tube to an existing concrete outlet structure; (5) a concrete gated outlet structure where the tailwater empties into a channel that leads to the Connecticut River; (6) a 13.8-kV transmission line and (7) appurtenant facilities.

1. *Location of the Application*: The filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*, or for TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item (h).

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene-Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents-Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. 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. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments-Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 03–10623 Filed 4–29–03; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7489–9]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices.

SUMMARY: This document announces the Office of Management and Budget's

(OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *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.

FOR FURTHER INFORMATION CONTACT: Susan Auby (202) 566–1672, or e-mail at *auby.susan@epa.gov,* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 0111.10; NESHAP for Asbestos; was approved 03/18/2003; in 40 CFR part 61, subpart M; OMB Number 2060–0101; expires 03/31/2006.

EPA ICR No. 0246.08; Contractor Cumulative Claim and Reconciliation; was approved 03/31/2003; OMB Number 2030–0016; expires 03/31/2006.

EPA ICR No. 1037.07; Oral and Written Purchase Orders; was approved 04/04/2003; OMB Number 2030–0007; expires 04/30/2006.

EPA ICR N0. 0663.08; NSPS for Beverage Can Surface Coating; was approved 04/04/2003; in 40 CFR part 60, subpart WW; OMB Number 2060–0001; expires 04/30/2003.

EPA ICR No.1127.07; NSPS for Hot Mix Asphalt Facilities; was approved 04/04/2003; in 40 CFR part 60, subpart I; OMB Number 2060–0083; expires 04/30/2006.

EPA ICR No. 1167.07; NSPS for Lime Manufacturing; was approved 04/04/2003; in 40 CFR part 60, subpart HH; OMB Number 2060–0063; expires 04/30/2006.

EPA ICR No. 1039.10; Monthly Progress Reports; was approved 03/19/2003; OMB Number 2030–0005; expires 03/31/2006.

EPA ICR No. 1055.07; NSPS for Kraft Pulp Mills; was approved 04/04/2003; in 40 CFR part 60, subpart BB; OMB Number 2060–0021; expires 04/30/2006.

EPA ICR No. 1130.07; NSPS for Grain Elevators; was approved 04/04/2003; in 40 CFR part 60, subpart DD; OMB Number 2060–0082; expires 04/30/2006.

EPA ICR No. 1363.12; Toxic Chemical Release Reporting, Recordkeeping, Supplier Notification and Petitions under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA); was approved 03/10/2003; in 40 CFR part 372; OMB Number 2070–0093; expires 10/31/2003.

EPA ICR No. 1704.06; Alternative Threshold for Low Annual Reportable Amounts; Toxic Chemical Release Reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA); was approved 03/10/2003; in 40 CFR part 372; OMB Number 2070–0143; expires 10/31/2003.

EPA ICR No. 1938.02; National Emission Standards for Hazardous Air Pollutants from Municipal Solid Waste Landfills; was approved 04/04/2003; in 40 CFR part 63, subpart AAAA; OMB Number 2060–0505; expires 04/30/2006.

EPA ICR No. 2059.01; Tribal Lands Hazardous Waste Sites Census; was approved 03/18/2003; in 40 CFR 66.802 and 40 CFR 66.809; OMB Number 2050–0189; expires 03/31/2006.

EPA ICR No. 2103.01; Title IV of the Public Health Security and Bioterriorism Preparedness and Response Act of 2002: Drinking Water Security and Safety; was approved 03/31/2003; in pub. law 107–188; OMB Number 2040–0253; expires 09/30/2003.

EPA ICR No. 2076.01; National Waste Minimization Partnership Program; was approved 04/10/2003; OMB Number 2050–0190; expires 04/30/2006.

EPA ICR No. 0275.08; Preaward Compliance Review Report for All Applicants Requesting Federal Financial Assistance; was approved 04/11/2003; OMB Number 2090–0014; expires 04/30/2006.

Short Term Extensions

EPA ICR No. 1912.01; Information Collection Request; National Primary Drinking Water Regulation for Lead and Copper (Final Rule); OMB Number 2040–0210; on 03/24/2003 OMB extended the expiration date through 06/30/2003.

EPA ICR No. 1727.02; Evaluation of the Burden of Waterborne Disease Within Communities in the United States; OMB 2080–0050; on 04/08/2003 OMB extended the expiration date through 07/31/2003.

Comment Filed

EPA ICR No. 2102.01; background checks for contractors performing services on-site for EPA; on 04/02/2003 OMB filed a comment.

EPA ICR No. 1060.11; NSPS for Steel Plants: Electric Arc Furnaces and Decarburization Vessels (Proposed rule amendment); in 40 CFR part 60, subparts AA and AAa; on 04/04/2003 OMB filed a comment.

EPA ICR No. 2045.01; National Emission Standards for Hazardous Air Pollutants for Automobile and Light-duty Truck Surface Coating (Proposed Rule); in 40 CFR part 63, subpart IIII; on 04/04/2003 OMB filed a comment.

EPA ICR No. 2072.01; NESHAP for Lime Manufacturing Plants (Proposed Rule); in 40 CFR 63.7130, 63.7100, 63.7131, and 63.7132; on 04/04/2003 OMB filed a comment.

Correction

This is to correct EPA ICR No. 0619.09, to EPA ICR No. 0161.09, Foreign Purchaser Acknowledgment Statement of Unregistered Pesticides; OMB No. 2070–0027; published on 01/14/2003.

Transfer

EPA ICR No. 2057.01; Eliciting Risk Tradeoffs for Valuing Fatal Cancer Risks; has been changed from OMB No. 2060–0502 to OMB No. 2090–0022 effective 04/02/2003.

Dated: April 23, 2003.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. 03–10652 Filed 4–29–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0036; FRL–7490–1]

Agency Information Collection Activities; Submission of New EPA ICR No. 2088.01 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 new Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Reporting and Recordkeeping Requirements under EPA's Hospitals for a Healthy Environment (H2E) Program (EPA ICR No. 2088.01). The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost. On August 19, 2002 (67 FR 53789), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA has addressed the comments received.

DATES: Additional comments may be submitted on or before May 30, 2003.

ADDRESSES: Submit your comments, identified by docket ID number OPPT–2002–0036, to both (1) EPA online at *http://www.epa.gov/edocket* (our preferred method) or by mail to: EPA

Docket Center, Environmental Protection Agency, Mailcode: 7407T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) 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.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mailcode: 7408, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–554–1404; e-mail address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following new ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.10.

EPA has established a public docket for this ICR under Docket ID No. OPPT–2002–0036, which is available for public viewing at 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 Pollution Prevention and Toxics Docket is (202) 566–0280. An electronic version of the public docket is available through 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. 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: Reporting and Recordkeeping Requirements under EPA's Hospitals for a Healthy Environment (H2E) Program (EPA ICR No. 2088.01). This is a request for a new collection activity submitted pursuant to 5 CFR 1320.10.

Abstract: The Hospitals for a Healthy Environment (H2E) program is a voluntary partnership program jointly administered by EPA and the American Hospital Association (AHA) that helps hospitals enhance work place safety, reduce waste and waste disposal costs, and become better environmental stewards and neighbors. The program is based on a 1998 Memorandum of Understanding signed by AHA and EPA to provide health care professionals with the tools and information necessary to reduce mercury waste, reduce the overall volume of waste, and identify pollution prevention opportunities.

The H2E program has two elements, the Partners for Change Program and the Champions for Change Program. The Partners for Change Program recognizes health care facilities that pledge support to the H2E mission and develop goals for reducing waste and mercury in their own facilities. The Champions for Change Program recognizes organizations that encourage and aid health care facilities to participate as H2E Partners, provide on-going promotional or technical assistance information, or make changes that support the goals of the H2E Program in their own institutions. An organization's decision to participate in the H2E Program is completely voluntary. This information collection addresses reporting and recordkeeping activities that support the administration of the H2E program.

Participation begins with the completion of and submittal to EPA of either a Partner Registration and Pledge Form or a Champion for Change Application form that provides EPA with general organizational information. Once an organization joins the Partners for Change Program, EPA expects new Partners to spend time up-front in establishing a solid foundation for H2E initiatives by documenting their environmental baseline when they first join H2E and by setting their own facility performance goals, and allots six months for Partners to establish their goals. During the first year and in all subsequent years, a Partner will submit the Annual Facility Assessment Summary and Goals Form. This form is designed to help a facility establish its own environmental baseline, continue to track its own environmental progress, provide basic contact and facility information, waste and mercury assessment summaries, environmental policy information, and a description of its pollution prevention (P2)/waste reduction goals and activities. EPA expects organizations to implement their H2E programs and report on their progress by January 31 of each subsequent year after joining, unless less than nine months have passed since the initial submission. The Annual Facility Assessment Summary and Goals Form is the main way Partners for Change report their environmental progress to EPA.

Partners and Champions may also apply for various H2E awards by submitting an Awards Application Form, the burden for which is also addressed in this ICR.

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 in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9 and included on the related collection instrument or form, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to range between 0.5 and 20 hours per response, depending upon the type of information the respondent provides. 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: Establishments or organizations engaged

in furnishing medical, surgical or other health services to individuals.

Estimated Number of Respondents: 550.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 10,110 hours.

Estimated Total Annual Cost: $343,765. There are no annualized capital or O&M costs.

Changes in the Estimates: None. This is a new information collection.

Dated: April 22, 2003.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. 03–10653 Filed 4–29–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0218, FRL–7489–7]

Agency Information Collection Activities; Submission to OMB; Comment Request; EPA ICR No. 0597.08/OMB Control No. 2070–0024; Tolerance Petitions for Pesticides on Food/Feed Crops and New Inert Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (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: Tolerance Petitions for Pesticides on Food/Feed Crops and New Inert Ingredients; EPA ICR No. 0597.08; OMB Control No. 2070–0024. The ICR, which is abstracted below, describes the nature of the information collection activity and its expected burden and costs.

DATES: Additional comments may be submitted on or before May 30, 2003.

ADDRESSES: Submit your comments, referencing docket ID number OPP–2002–0218, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *opp-docket@epa.gov,* or by mail to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Mailcode: 7502C, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) 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.

FOR FURTHER INFORMATION CONTACT: Nancy Vogel, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6475; fax number: (703) 305–5884; e-mail address: *vogel.nancy@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. The **Federal Register** document, required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on October 31, 2002 (67 FR 66392). EPA received no comments on this ICR during the 60-day comment period.

EPA has established a public docket for this ICR under Docket ID No. OPP–2002–0218, which is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805. 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. Please note, 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.*

ICR Title: Tolerance Petitions for Pesticides on Food/Feed Crops and New Inert Ingredients (EPA ICR 0597.08, OMB Control No. 2070–0024).

ICR Status: This is a request for extension of an existing approved collection that is currently scheduled to expire on April 30, 2003. EPA is asking OMB to approve this ICR for three years. Under 5 CFR 1320.12(b)(2), the Agency may continue to conduct or sponsor the collection of information while the submission is pending at OMB.

Abstract: This information collection will enable EPA to collect adequate data to support the establishment of pesticide tolerances pursuant to section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA). A pesticide may not be used on food or feed crops unless EPA has established a tolerance for the pesticide residues on that crop, or established an exemption from the requirement to have a tolerance. Responses to this collection are required to obtain tolerances or exemptions from tolerances for pesticides used on food or feed crops, pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170). Confidential Business Information (CBI) submitted to EPA in response to this information collection is protected from disclosure under FIFRA section 10.

It is EPA's responsibility to ensure that the maximum residue levels likely to be found in or on food/feed crops are safe for human consumption through a careful review and evaluation of residue chemistry and toxicology data. In addition, it must ensure that adequate enforcement of the tolerance can be achieved through the testing of submitted analytical methods. Once the data are deemed adequate to support the findings, EPA will establish the tolerance or grant an exemption from the requirement of a tolerance.

Burden Statement: The annual ''respondent'' burden for this ICR is estimated to be 258,900 hours. According to the Paperwork Reduction Act, ''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. For this collection, it is the time reading the regulations, planning the necessary data collection activities, conducting tests, analyzing data, generating reports and completing other required paperwork, and storing, filing, and maintaining the data. The

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 number for this information collection appear at the beginning and the end of this document. In addition OMB control numbers for EPA's regulations, after initial display in the final rule, are listed in 40 CFR part 9.

The following is a summary of the burden estimates taken from the ICR:

Respondents/affected entities: Any person seeking a tolerance action.

Estimated total number of potential respondents: 150.

Frequency of response: As needed.

Estimated total/average number of responses for each respondent: 1.

Estimated total annual burden hours: 258,900.

Estimated total annual burden costs: $23,435,700.

Changes in the ICR Since the Last Approval: The total estimated annual respondent cost for this ICR has increased $1,305,700 (from $22,130,000 to $23,435,700), due mainly to the update in the loaded hourly labor rates used to calculate the costs. This increase is explained more fully in the ICR.

According to the procedures prescribed in 5 CFR 1320.12, EPA has submitted this ICR to OMB for review and approval. Any comments related to the renewal of this ICR should be submitted within 30 days of this notice, as described above.

Dated: April 22, 2003.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. 03–10654 Filed 4–29–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2003–0005; FRL–7489–8]

Agency Information Collection Activities; Submission for OMB Review and Approval; Comment Request; NSPS for Secondary Lead Smelters (40 CFR Part 60, Subpart L), ICR Number 1128.07 (OMB Number 2060–0080)

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: NSPS for Secondary Lead Smelters (40 CFR part 60, subpart L), OMB Control Number 2060–0080, EPA ICR Number 1128.07. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before May 30, 2003.

ADDRESSES: Follow the detailed instructions in the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Mail Code 2223A, Office of Compliance, United States Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@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 26, 2002 (67 FR 60672), 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 Number OECA–2003–0005, which is available for public viewing at the Enforcement and Compliance Docket and Information Center 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 Enforcement and Compliance Docket and Information Center Docket 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. When 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 email to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code: 2201T, 1200 Pennsylvania Avenue, 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 comment, whether submitted electronically or on paper, will be available for public viewing in EDOCKET, as EPA receives them without change, unless the comment contains copyrighted material, Confidential Business Information (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 placed in EDOCKET. The entire printed comment, including 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: NSPS for Secondary Lead Smelters (40 CFR part 60, subpart L), (OMB Control Number 2060–0080, EPA ICR Number 1128.07). This is a request to renew an existing, approved collection that is scheduled to expire on June 30, 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 NSPS for Secondary Lead Smelters, published at 40 CFR part 60, subpart L, were proposed on June 11, 1973, and promulgated on March 8, 1974. These standards apply to affected facilities at secondary lead smelters facilities including: pot furnaces of more than 250 kg (550 lb) charging capacity, blast (cupola) furnaces, and reverberatory furnaces that commenced construction or modification after June 11, 1973. This information is being collected to assure compliance with 40 CFR part 60, subpart L.

Owners or operators of affected facilities described must notify EPA of construction, reconstruction, modification, anticipated and actual startup dates, and results of performance tests. These facilities must

also maintain records of performance test results, startups, shutdowns, and malfunctions. In order to ensure compliance with the standards, adequate recordkeeping and reporting is necessary. This information enables the Agency to: (1) Identify the sources subject to the standard; (2) ensure initial compliance with emission limits; and (3) verify continuous compliance with the standard. Reporting and recordkeeping requirements on the part of the respondent are mandatory under section 114 of the Clean Air Act as amended and 40 CFR part 60.

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 1.5 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: Secondary Lead Smelters.

Estimated Number of Respondents: 25.

Frequency of Response: Initial startup, construction, reconstruction and modification.

Estimated Total Annual Hour Burden: 38 hours.

Estimated Total Capital and Operations & Maintenance (O & M) Annual Costs: None.

Changes in the Estimates: There is an increase of three hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR burdens. This is due to an increased recognition of the time required to perform some tasks. Labor rates have also increased.

Dated: April 21, 2003.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 03–10655 Filed 4–29–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0084; FRL–7303–9]

Adverse Effects Reporting Under Section 6(a)(2) of FIFRA; Renewal of Pesticide Information Collection Activities and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.), this notice announces that EPA is seeking public comment on the following Information Collection Request (ICR): Adverse Effects Reporting Under Section 6(a)(2) of FIFRA; (EPA ICR No. 1204.09, OMB Control No. 2070–0039). This is a request to renew an existing ICR that is currently approved and due to expire January 31, 2004. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket ID number OPP–2003–0084, must be received on or before June 30, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Nancy Vogel, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: 703–305–6475; fax number: 703–305–5884; e-mail address: vogel.nancy@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does This Action Apply to Me?

You may be potentially affected by this action if you hold or ever held a registration for a pesticide product issued under FIFRA section 3 or 24(c). Potentially affected entities may include, but are not limited to:

- Pesticide and other agricultural chemical manufacturing (NAICS 325320), e.g., persons or companies who hold or ever held a registration for a pesticide product under FIFRA section 3 or 24(c).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed above could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in section 6(a)(2) of FIFRA. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Copies of This Document and Other Related Information?

A. Docket

EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0084. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

B. Electronic Access

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 submit or 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. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. 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 in Unit II.A. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose 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 EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

III. How Can I Respond to This Action?

A. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit III.B. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at http://www.epa.gov/edocket, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0084. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to opp-docket@epa.gov, Attention: Docket ID Number OPP–2003–0084. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit III.A. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2003–0084.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP–2003–0084. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit II.A.

B. How Should I Submit CBI To the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's

electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

C. What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

D. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are 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 estimates of the burdens of the proposed collections of information.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does This Action Apply to?

EPA is seeking comments on the following ICR:

Title: Adverse Effects Reporting Under Section 6(a)(2) of FIFRA

ICR numbers: EPA ICR No. 1204.09; OMB Control No. 2070–0039

ICR status: This ICR is a renewal of an existing ICR that is currently approved by OMB and is due to expire January 31, 2004.

Abstract: Section 6(a)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) requires pesticide registrants to submit information to the Agency that they acquire which may be relevant to the balancing of the risks and benefits of a pesticide product. The statute requires the registrant to submit any factual information that it acquires regarding adverse effects associated with its pesticidal products, and it is up to the Agency to determine whether or not that factual information constitutes an unreasonable adverse effect. Responses to this collection are mandatory. The authority for this information collection is pursuant to section 6(a)(2) of FIFRA. Compliance regulations are contained in Title 40 of the Code of Federal Regulations (CFR) part 159. CBI submitted to EPA in response to this information collection is protected from disclosure under FIFRA section 10. In order to limit the amount of less meaningful information that might be submitted to the Agency, the EPA has limited the scope of factual information that the registrant must submit. On September 19, 1997, the Agency published final regulations (62 FR 49370) that provided a detailed description of the reporting obligations of registrants under FIFRA section 6(a)(2). The regulations became effective on August 17, 1998.

V. What are EPA's Burden and Cost Estimates for This ICR?

Under the PRA, ''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. For this collection it 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.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this information collection is estimated to be 155,640 hours. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: Pesticide registrants who sell or distribute pesticide products in the United States.

Estimated total number of potential respondents: 1,877

Frequency of response: As necessary

Estimated total/average number of responses for each respondent: 1 to 3

Estimated total annual burden hours: 155,640

Estimated total annual burden costs: $12,057,947

VI. Are There Changes in the Estimates From the Last Approval?

The burden hour estimate in this ICR has decreased from 166,266 to 155,640, which reflects a number of adjustments. First, there are slightly fewer registrants of active pesticide products and fewer employees to be trained than reflected in the previous ICR. Burden estimates associated with the number of studies the respondents might submit on an annual basis have decreased from 350 to 325. For studies, the burden hours are reduced from 5.9 to 3.2 hours per study. These reductions reflect a mature program and the familiarity with the regulations that comes with experience. Burden costs, however, are not comparably reduced because of higher labor rates.

VII. What is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: April 23, 2003.

Susan B. Hazen,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 03–10662 Filed 4–29–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7490–2]

Science Advisory Board, Computational Toxicology Framework Consultative Panel; Request for Nominations for Expertise

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) announces the formation of a new ''Computational Toxicology Framework (CTF) Consultative Panel'' and is soliciting nominations for members of the panel.

DATES: Nominations should be submitted by May 21, 2003. The consultation of the panel is planned for the summer of 2003 (tentatively mid-July) in Chicago, IL.

ADDRESSES: Nominations should be submitted in electronic format through the Form for Nominating Individuals to Panels of the EPA Science Advisory Board provided on the SAB Web site. The form can be accessed through a link on the blue navigational bar on the SAB Web site, *www.epa.gov/sab.* To be considered, all nominations must include the information required on that form. Anyone who is unable to submit nominations via this form may contact Dr. James N. Rowe, Designated Federal Officer (DFO) as indicated below.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this Request for Nomination may contact Dr. James N. Rowe, by telephone/voice mail at (202) 564–6488, or via e-mail at *rowe.james@epa.gov.* General information about the SAB can be found in the SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Summary: The U.S. Environmental Protection Agency (EPA or Agency) Science Advisory Board is requesting nominations of expertise for a review panel to evaluate the EPA's Office of Research and Development framework for the development of an initiative in Computational Toxicology. (Computational Toxicology is defined as the application of models from computational and mathematical biology and computational chemistry for prediction and understanding mechanisms.)

This Panel is being formed to provide advice to the Agency as part of the EPA SAB mission, established by 42 U.S.C. 4365, to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical bases for EPA positions and regulations.

This project is intended as a consultation on the direction of the CTF; the background for the effort and the charge to the Panel is described below. The Board is a chartered Federal Advisory Committee, which reports directly to the Administrator.

Members of the Panel will provide advice to the Agency, through the SAB's Executive Committee. The Panel will comply with the provisions of FACA and all appropriate procedural policies, including the SAB process for panel formation described in the EPA Science Advisory Board (SAB) Panel Formation Process: Immediate Steps to Improve Policies and Procedures—An SAB Commentary (EPA–SAB–EC–COM–002–003), *http://www.epa.gov/sab/ecm02003.pdf.*

Background: The EPA's Office of Research and Development is seeking SAB advice in development of a Framework for the Use of Computational Toxicology in Risk Assessment. Computational toxicology involves the application of various mathematical and computer models for prediction and the understanding of mechanisms. The Computational Toxicology Initiative is a technology-based, hypothesis-driven effort to increase the soundness of risk assessment decisions within the Agency, while building the capacity to prioritize, screen and evaluate significantly greater numbers of chemicals by enhancing the predictive understanding of toxicities. Success will be measured by the ability to improve assessments relative to the traditional means that have been utilized to understand modes of action and to characterize adverse outcomes, and by classifying chemicals by their potential to influence molecular and biochemical pathways of concern.

ORD has found it useful to envision the risk assessment paradigm as a continuum of events leading from environmental release to adverse effect. Between those two events are a whole cascade of events that lead from one measurable event to the next. ORD's research program focuses on learning more about the processes that lead from exposure to adverse outcome. ORD will use new techniques in computational toxicology (bioinformatics, mathematical biology, computational chemistry), toxicogenomics technology (genomics, proteomics, metabonomics) and systems biology to improve the understanding of the linkages between the processes in the continuum.

The overall goal of ORD's research initiative on Computational Toxicololgy is to use the biology and computing to provide EPA with the tools to improve quantitative risk assessments and reduce uncertainties in the source to adverse outcome continuum. To meet this goal, ORD has identified three strategic objectives for the Computational Toxicology Initiative:

- Develop improved linages across the source-to-outcome paradigm. Understanding those linkages will decrease uncertainties in assessing risk to human health and the environment.
- Develop strategies for prioritizing chemicals for subsequent screening and testing. The current approach requires extensive resources for screening and testing chemicals and an approach must be developed to determine which chemicals or classes of chemicals in the universe or chemicals should be screened and tested first.
- Develop better methods and predictive models for quantitative risk assessment.

Tentative Charge to the Panel: The charge is for a consultation by the Panel to review the Computational Toxicology Framework being developed by ORD and advise on appropriate research directions and roles. A ''consultation'' is one of several types of formal interactions between the Agency and the Science Advisory Board. The purpose of the consultation is to conduct an early discussion between the Agency and the SAB to help articulate important issues in the development of the project. The meeting is public and consists of briefings and discussions. In some cases a partial document, or an early draft is available to serve as a basis for discussions. A charge is often defined but is less focused than that used in a formal peer review. No consensus advice is sought and no report is generated by the SAB.

SAB Request for Nominations: The EPA SAB is requesting nominations of individuals who are recognized, national-level experts in one or more of the following disciplines necessary to contribute to the discussions to be addressed by the Consultative Panel for the Computational Toxicology Framework:

(a) Comparative genomics/proteomics/metabonomics;

(b) Mixtures;

(c) Quantitative structure-activity relationships;

(d) Systems biology;

(e) Endocrine disruptors;

(f) Computational biology/bioinformatics;

(g) Risk assessment;

(h) Mathematical biology;

(i) Pharmacokinetics/metabolism of toxicants: PBPK/BBDR

(j) Exposure; and

(k) Fate and transport;

Process and Deadline for Submitting Nominations: Any interested persons or organization may nominate qualified individuals to add expertise to the Panel in the above areas. Nominations should be submitted in electronic format through the Form for Nominating Individuals to Panels of the EPA Science Advisory Board provided on the SAB Web site. The form can be accessed through a link on the blue navigation bar on the SAB Web site, *www.epa.gov/sab.* To be considered, all nominations must include the information required on that form.

Anyone who is unable to submit nominations using this form, and any questions concerning any aspects of the nomination process may contact Dr. James Rowe as indicated above in this **Federal Register** notice. Nominations should be submitted in time to arrive no later than May 21, 2003.

The EPA Science Advisory Board will acknowledge receipt of the nomination and inform nominators of the panel selected. From the nominees identified by respondents to this **Federal Register** notice (termed the ''Widecast''), SAB Staff will develop a smaller subset (known as the ''Short List'') for more detailed consideration. Criteria used by the SAB Staff in developing this Short List are given at the end of the following paragraph. The Short List will be posted on the SAB Web site at *http://www.epa.gov/sab,* and will include, for each candidate, the nominee's name and biosketch. Public comments will be accepted for 21 calendar days on the Short List. During this comment period, the public will be requested to provide information, analysis or other documentation that the SAB Staff should consider in evaluating candidates for the Panel.

For the EPA SAB, a balanced review panel (*i.e.*, committee, subcommittee, or panel) is characterized by inclusion of candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. Public responses to the Short List candidates will be considered in the selection of the panel, along with information provided by candidates and information gathered by EPA SAB Staff independently on the background of each candidate (*e.g.*, financial disclosure information and computer searches to evaluate a nominee's prior involvement with the topic under review). Specific criteria to be used in evaluating an individual subcommittee member include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) absence of financial conflicts of interest; (c) scientific credibility and impartiality; (d) availability and willingness to serve; and (e) ability to work constructively and effectively in committees.

Short List candidates will also be required to fill-out the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form, which is submitted by EPA SAB Members and Consultants, allows government officials to determine whether there is a statutory conflict between that person's public responsibilities (which includes membership on an EPA Federal advisory committee) and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form may be viewed and downloaded from the following URL address: *http://www.epa.gov/sab/pdf/epaform3110–48.pdf.* Subcommittee members will likely be asked to attend at least one public face-to-face meeting and one public conference call meeting over the anticipated course of the consultative activity.

Dated: April 22, 2003.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 03–10651 Filed 4–29–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7490–8]

Science Advisory Board; Air Toxics Research Strategy/Multi-Year Research Plan (MYP) Review Panel Request for Nominations for Expertise

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency Science Advisory Board (SAB) announces the formation of a new ''Air Toxics Research Strategy/Multi-Year Plan (ATRS/MYP) Review Panel'' and is seeking nominations for members of the panel.

DATES: Nominations should be submitted by May 21, 2003. The consultation by the panel is planned for the summer of 2003 (tentatively mid-July) the meeting will be held in Research Triangle Park, NC.

ADDRESSES: Nominations should be submitted in electronic format through the Form for Nominating Individuals to Panels of the EPA Science Advisory Board provided on the SAB Web site. The form can be accessed through a link on the blue navigational bar on the SAB Web site, *http://www.epa.gov/sab.* To be considered, all nominations must include the information required on that form. Anyone who is unable to submit nominations via this form may contact Dr. James Rowe, Designated Federal Officer, (DFO) as indicated below.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this Request for Nomination may contact Dr. James Rowe, Designated Federal Officer, by telephone/voice mail at (202) 564–6488, by fax at (202) 501–0323; or via e-mail at *rowe.james@epa.gov.* General information about the SAB may be found in the SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

1. *Summary:* The U.S. Environmental Protection Agency (EPA or Agency) Science Advisory Board is requesting nominations of expertise for a review panel to comment on the EPA ATRS/MYP developed by the Office of Research and Development (ORD) which addresses the scope and magnitude of air toxics.

This Panel is being formed to provide advice to the Agency as part of the EPA SAB mission, established by 42 U.S.C. 4365, to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical bases for EPA positions and regulations.

This project is intended as a review of the ATRS/MYP; the background for the effort and the charge to the Panel is described below. The Board is a chartered Federal Advisory Committee, which reports directly to the Administrator.

Members of the Panel will provide advice to the Agency, through the SAB's Executive Committee. The Panel will comply with the provisions of FACA and all appropriate procedural policies, including the SAB process for panel formation described in the EPA Science Advisory Board (SAB) Panel Formation Process: Immediate Steps to Improve Policies and Procedures—An SAB Commentary (EPA–SAB–EC–COM–002–

003), *http://www.epa.gov/sab/ecm02003.pdf.*

2. *Background:* The EPA's Office of Air and Radiation (OAR) implements numerous requirements within section 112 of the Clean Air Act (CAA) to protect the public and the environment from hazardous air pollutants (HAPs). The CAA list 188 HAPs and there are thousands of other potentially toxic chemicals that find their way into the environment. There are concerns for the potential human health risks associated with exposures to the large number of chemicals and sources and the complexity of effects, exposure scenarios, and mitigation practices which need to be addressed.

The EPA's Office of Research and Development (ORD) has developed an air toxics research strategy (ATRS) and an air toxics multi-year plan (MYP) in consultation with the OAR to address the scope and magnitude of air toxics research. The ATRS provides a framework and strategic principles as the basis for ORD's research directions and priorities. The MYP implements the framework by developing specific yearly performance goals and performance measures of research that must be achieved in order to meet regulatory-based long term goals in air toxics research. The research strategy and multi-year plan will be posted on the ORD Web site at a later date. Information on the general research planning process may be obtained at the following Web site: *http://www.epa.gov/ord/htm/researchstrategies.htm; http://www.epa.gov/osp/myp.htm.*

3. Tentative Charge to the Review Panel. Specific and detailed charge questions are still under development, but the charge will encompass sufficiency of the regulatory and research context, comprehensiveness of key questions, strategic principles and research needs in addressing the important research to be undertaken, appropriateness of grouping air toxics, appropriateness of long-term goals for the MYP and measurability of annual performance goals and measures to accomplish priority needs of the air program. The charge will be available at a later date on the SAB Web site at *http://www/epa/sab.gov.*

4. SAB Request for Nominations: The EPA SAB is requesting nominations of individuals who are recognized, national-level experts in one or more of the following disciplines necessary to contribute to the charge questions to be addressed by the Review Panel for the review of the ATRS/MYP:

(a) Emissions estimation;

(b) Air quality modeling;

(c) Exposure modeling related to air pollution;

(d) Health effects of air pollutants;

(e) Air pollution epidemiology;

(f) Risk assessment of air pollutants;

(g) Uncertainty analysis and statistical probability;

(h) Pharmacokinetics/metabolism of air pollutants; and

(i) Risk management/risk reduction of air pollutants

5. Process and Deadline for Submitting Nominations: Any interested persons or organization may nominate qualified individuals to add expertise to the Panel in the above areas. Nominations should be submitted in electronic format through the Form for Nominating Individuals to Panels of the EPA Science Advisory Board provided on the SAB Web site. The form can be accessed through a link on the blue navigation bar on the SAB Web site, *http://www.epa.gov/sab.* To be considered, all nominations must include the information required on that form.

Anyone who is unable to submit nominations using this form, and any questions concerning any aspects of the nomination process may contact Dr. James Rowe as indicated above in this FR notice. Nominations should be submitted in time to arrive no later than May 21, 2003.

The EPA Science Advisory Board will acknowledge receipt of the nomination and inform nominators of the panel selected. From the nominees identified by respondents to this **Federal Register** notice (termed the ''Widecast''), SAB Staff will develop a smaller subset (known as the ''Short List'') for more detailed consideration. Criteria used by the SAB Staff in developing this Short List are given at the end of the following paragraph. The Short List will be posted on the SAB Web site at *http://www.epa.gov/sab,* and will include, for each candidate, the nominee's name and biosketch. Public comments will be accepted for 21 calendar days on the Short List. During this comment period, the public will be requested to provide information, analysis or other documentation that the SAB Staff should consider in evaluating candidates for the Panel.

For the EPA SAB, a balanced review panel (*i.e.*, committee, subcommittee, or panel) is characterized by inclusion of candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. Public responses to the Short List candidates will be considered in the selection of the panel, along with information provided by candidates and information gathered by EPA SAB Staff independently on the background of each candidate (*e.g.*, financial disclosure information and computer searches to evaluate a nominee's prior involvement with the topic under review). Specific criteria to be used in evaluating an individual subcommittee member include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) absence of financial conflicts of interest; (c) scientific credibility and impartiality; (d) availability and willingness to serve; and (e) ability to work constructively and effectively in committees.

Short List candidates will also be required to fill-out the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form, which is submitted by EPA SAB Members and Consultants, allows Government officials to determine whether there is a statutory conflict between that person's public responsibilities (which includes membership on an EPA Federal advisory committee) and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form may be viewed and downloaded from the following URL address: *http://www.epa.gov/sab/pdf/epaform3110-48.pdf.* Subcommittee members will likely be asked to attend at least one public face-to-face meeting and several public conference call meetings over the anticipated course of the advisory activity.

Dated: April 25, 2003.

Angela Nugent,

Acting Office Director, EPA Science Advisory Board Staff Office.

[FR Doc. 03–10660 Filed 4–29–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRN–7490–7]

Workshop on Asbestos Mechanisms of Toxicity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public workshop.

SUMMARY: This notice announces a workshop to address the mechanisms of asbestos toxicity and to review the most

recent state of science on asbestos. The purpose of the workshop is to discuss the molecular induction of asbestos related disease, lung/pleural pathogenesis, and the extrapolation of a dose response relationship. Expert panelists will discuss the following topic areas: Molecular, chemical and biochemical mechanisms of asbestos fiber toxicity; mechanisms of fiber-inducing lung and pleural disease; and exposure and dose response relationships. A summary report will be prepared documenting the discussions of the workshop, and this report will be publicly available and will support EPA's administrative record for IRIS. This meeting is being sponsored by EPA's Office of Solid Waste and Emergency Response and by EPA's Office of Research and Development.

DATES: The workshop will be held on June 12–13, 2003. The workshop hours will be from 8 a.m. to 5 p.m. on Thursday, June 12, and from 8 a.m. to 12 p.m. on Friday, June 13. Observers will be encouraged to submit comments on panel discussions currently scheduled on Thursday and Friday.

ADDRESSES: The workshop will be held at the Hyatt Regency Hotel in Chicago, Illinois. To attend the workshop as an observer, contact the MNG Center of SRA International (MNG) either in writing, by electronic mail, or by telephone. MNG's contact information for this workshop is: MNG Center, Asbestos Workshop Registration, 2801 Clarendon Boulevard, Suite 100, Arlington, Virginia 22201. Phone Number: (703) 292–5939. E-mail: *asbestosworkshop@sra.com.* Web link: *http://www.epa.gov/swerrims/asbestos_ws/index.htm.*

There is no charge for attending this workshop as an observer, but observers are encouraged to register early as the number of seats will be limited. Each registrant will receive a confirmation notice, a preliminary agenda, and a logistical fact sheet that contains directions to the meeting location. Copies of the presentation material can be obtained prior to the meeting from the EPA, Web page *http://www.epa.gov/swerrims/asbestos_ws/index.htm.*

SUPPLEMENTARY INFORMATION: EPA's current assessment of asbestos toxicity is based primarily on an asbestos assessment completed in 1986, and EPA's assessment has not changed substantially since that time. However, since 1986, there have been substantial improvements in asbestos measurement techniques and in the understanding of how asbestos exposure contributes to disease. To incorporate the knowledge gained over the last 17 years into the agency's toxicity assessment for asbestos, EPA is interested in reviewing the most up-to-date peer review literature on the mechanisms of asbestos toxicity. The experts will include scientists with extensive expertise in relevant fields, such as mechanistic toxicology, pulmonology toxicology, and risk assessment. The panelists will be asked to respond to several questions that address key issues, including interpretations of epidemiology and toxicology literature, mechanistic toxicity and general topics. The product of the workshop will be a report that summarizes the panelists' and observers' comments, conclusions, and recommendations on the proposed methodology.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/CERCLA Call Center at 800–424–9346 or TDD 800–553–7672 (hearing impaired). In the Washington, DC metropolitan area, call 703–412–9810 or TDD 703–412–3323.

For more detailed technical information on this conference call Anna Treinies (202–566–1039) Office of Emergency and Remedial Response, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002, Mail Code 5103T.

Dated: April 24, 2003.

Devereaux Barnes,

Director, Office of Program Management, Office of Solid Waste and Emergency Response.

[FR Doc. 03–10650 Filed 4–29–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0082; FRL–7301–4]

Difenzoquat, Diquat Dibromide; Notice of Closure for 2002 Tolerance Reassessment Decisions (TREDs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the closure of the tolerance reassessment decisions for the chemical active ingredients difenzoquat and diquat dibromide. No adverse comments were received during the 30–day comment periods for the ''Tolerance Reassessment Progress and Risk Mitigation Decision TRED for Difenzoquat'' or the ''Report of the Food Quality Protection Act (FQPA) Tolerance Reassessmemt and Risk Management Decision TRED for Diquat Dibromide.'' Therefore, the TREDs for these chemicals fulfill the requirements of FQPA and are considered closed.

FOR FURTHER INFORMATION CONTACT: *For difenzoquat*: Tawanda Spears, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8050; fax number: (703) 308–8005; e-mail address: *spears.tawanda@epa.gov.*

For diquat dibromide: Tyler Lane, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–2737; fax number (703) 308–8005; e-mail address: *lane.tyler@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to those persons who are or may be required to conduct testing of chemical substances under the Toxic Substances Control Act (TSCA), the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the persons listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0082. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal

holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* 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 in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number. Difenzoquat is identified under OPP–2002–0097 and diquat dibromide under OPP–2002–0098 in the EPA docket system.

II. Background

A. What Action is the Agency Taking?

This notice constitutes and announces the closing of the comment periods for the difenzoquat and diquat dibromide TREDs. These decisions have been developed as part of the public participation process that EPA and the U.S. Department of Agriculture (USDA) are using to involve the public in the reassessment of pesticide tolerances under FFDCA. EPA must review tolerances and tolerance exemptions that were in effect when FQPA was enacted in August of 1996, to ensure that these existing pesticide residue limits for food and feed commodities meet the safety standard of the new law.

In reviewing these tolerances, the Agency must consider, among other things, aggregate risks from non-occupational sources of pesticide exposure, where there increased susceptibility to infants and children, and the cumulative effects of pesticides with a common mechanism of toxicity. The tolerances are considered reassessed once the safety finding has been made that the aggregate risks are not of concern. A reregistration eligibility decision (RED) was completed for difenzoquat in September 1994 and for diquat dibromide in July 1995, both prior to FQPA enactment, and therefore needed updated assessments to consider the provisions of the Act.

The 30–day comment periods for the difenzoquat and diquat dibromide TREDs were closed on June 12, 2002 (67 FR 40296) (FRL–7181–4). As neither chemical received any adverse comments, the Agency considers the TREDs for these pesticides as immediate final decisions and hereby closed.

B. What is the Agency's Authority for Taking this Action?

The legal authority for this decision falls under FIFRA, as amended in 1988 and 1996. Section 4(g)(2)(A) of FIFRA directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' and either reregister products or take other ''appropriate regulatory action.''

List Subjects

Environmental protection, pesticides, tolerance reregistration, difenzoquat, diquat dibromide.

Dated: April 16, 2003.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 03–10265 Filed 4–29–03; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 03–1165]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On April 24, 2003, the Commission released a public notice announcing the May 13, 2003, meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and its agenda.

DATES: Tuesday, May 13, 2003, 9 a.m.

ADDRESSES: Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, The Portals II, 445 12th Street, SW., Suite 5–A420, Washington, DC 20554. Requests to make an oral statement or provide written comments to the NANC should be sent to Deborah Blue.

FOR FURTHER INFORMATION CONTACT: Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418–1466 or *dblue@fcc.gov*. The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: Released: April 24, 2003.

The North American Numbering Council (NANC) has scheduled a meeting to be held Tuesday, May 13, 2003, from 9 a.m. until 5 p.m. The meeting will be held at the Federal Communications Commission, Portals II, 445 12th Street, SW., Room TW–C305, Washington, DC. This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting.

Proposed Agenda—Tuesday, May 13, 2003, 9 a.m.

1. Announcements and Recent News.
2. Approval of Minutes: Meeting of March 19, 2003.
3. Report of the North American Numbering Plan Administrator (NANPA): CO Code Activity Report, NPA Relief Planning status, NPA exhaust projections (if available), NRUF update.
4. Report of National Thousands Block Pooling Administrator: Activity report.
5. Report of 3–Digit DIG IMG.
6. Report of Oversight Working Group: NANPA 2002 Performance Report, Report and Analysis of PAS Forecast Processing (Verizon Dispute), Recommendation for Change Order 18, Monthly meeting with NANPA.
7. Status of Industry Numbering Committee activities.
8. Report of the Local Number Portability Administration (LNPA) Working Group: Wireless Number Portability Operations (WNPO) Subcommittee.
9. Report from NBANC.
10. Report of Cost Recovery Working Group.
11. Update on USF IMG.
12. Summary of Action Items.
13. Steering Committee: Table of NANC Projects.
14. Public Comments and Participation (5 minutes per speaker).
15. Other Business.

Adjourn no later than 5 p.m.

Federal Communications Commission.

Cheryl L. Callahan,

Assistant Chief, Telecommunications Access Policy Division, Wireline Competition Bureau.

[FR Doc. 03–10567 Filed 4–29–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

Previously announced date & time: Thursday, May 1, 2003, 10 a.m. (open meeting): The following item has been added to the agenda: Final audit report: Larouche's Committee for a New Bretton Woods.

DATE AND TIME: Tuesday, May 6, 2003 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Wednesday, May 7, 2003 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This Hearing Will Be Open to the Public.

MATTER BEFORE THE COMMISSION: Buchanan/Foster, Inc.

DATE AND TIME: Thursday, May 8, 2003 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Draft Advisory Opinion 2003–06: Public Services Enterprise Group, Inc. by Counsel, Bobby R. Burchfield.

Administrative Matters.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 03–10809 Filed 4–28–03; 3:08 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011493–004.

Title: C&S Shipping Joint Service Agreement.

Parties: LauritzenCool AB, Seatrade Group N.V.

Synopsis: The proposed agreement modification adds New Zealand to the geographic scope.

Agreement No.: 011770–001.

Title: NSCSA/Oldendorff Slot Exchange Agreement.

Parties: National Shipping Company of Saudi Arabia, Oldendorff Carriers (Indotrans) Ltd.

Synopsis: The proposed agreement modification adds a clause excluding the trade from ports on the U.S. East Coast to Jeddah, Dammam, Port Rashid, Port Qasim, and JNPT (Mumbai) in the geographic scope.

Agreement No.: 011850.

Title: CMA CGM/CSCL Cross Space Charter, Sailing and Cooperative Working Agreement—North China, Japan/USWC Loop.

Parties: CMA CGM, S.A. (''CMA CGM'') China Shipping Container Lines (''CSCL'').

Synopsis: The proposed agreement would authorize CMA CGM and CSCL to operate a five-vessel service in the trade between the U.S. West Coast and ports in the Japan/South Korea/China/Southeast Asia range. CSCL will provide three of the vessels and CMA CGM will provide the other two vessels. The agreement authorizes the parties to agree on the number and size of the vessels to be operated as well as sailings, schedules, and port calls. The parties would also be authorized to engage in a limited range of cooperative activities relating to the chartering of space and the use of, among other things, facilities, services, and equipment.

Dated: April 25, 2003.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–10683 Filed 4–29–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants:

ABC Depot, Inc., 1628 N. Indiana Street, Los Angeles, CA 90063.Officers: Jin Feng Chen, Secretary/CFO, (Qualifying Individual); Shiqiang Xu, President

Associated Container Lines (USA), LLC, 3245 Benchmark Drive, Ladson, SC 29456. Officers: Roger H. Botting, Managing Partner, (Qualifying Individual); Regina J. Botting, Partner

Jobox Unizoom, Inc., 760 Market Street, Suite 748, San Francisco, CA 94102. Officers: Roberto P. Castro, Corporate Secretary, (Qualifying Individual); Jocelyn P. Rolf-Harris, Chairman/President

M Star International Corp., 430 W. Merrick Rd., Suite Q, Valley Stream, NY 11580. Officer: Sam Yee, President, (Qualifying Individual)

Seatrans Logistics Inc., 18504 8th Avenue, Shoreline, WA 98155. Officers: Chen Guang Yao, Director, (Qualifying Individual); Zheng Shi, President

State Street Shipping Agency Inc., One Saint Louis Centre, Suite #3002, Mobile, AL 36602. Officers: Hans Modsen, Asst Secretary, (Qualifying Individual); H.W. Thurber, III, President

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

Trico Forwarding-USA, Inc., 250 E. Manville Street, Compton, CA 90220. Officer: Angie Park, Sales and Traffic Manager, (Qualifying Individual)

Delmar Logistics (IL) Inc., 1000 Tower Lane, Bensenville, IL 60617. Officers: Robert Iny, Vice President, (Qualifying Individual); William Julich, President

DeWitt Companies, Ltd., LLC, 9089 Clairmont Mesa Blvd., Suite 301, San Diego, CA 92123. Officers: Alan Patrick Meyer, Vice President, (Qualifying Individual); John Burrows, President

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

Atlas International Freight Forwarding (USA) Inc. dba Atlas Cargo, 6172 N.W. 74th Avenue, Miami, FL 33166. Officer: Ken Palermo, Director, (Qualifying Individual)

M.O.T. Intermodal Shipping (NY) Inc., 1200–A Scottsville Road, Rochester, NY 14624. Officers: Danielle M. Hogancamp, Vice President, (Qualifying Individual); Ole Enderslev, President

BF Packing Corp., 4612 NW 74th Avenue, Miami, FL 33166. Officers: Tatiana M. Perez, Vice President, (Qualifying Individual); Jorge A. Perez, President

Dated: April 25, 2003.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–10680 Filed 4–29–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Correction

In the **Federal Register** Notice published March 27, 2003 (68 FR 14983) the reference to ACS Cargo Systems, Inc. dba Expedite America Express is corrected to read:

''MCS Cargo Systems, Inc. dba Expedite America Express''

Dated: April 25, 2003.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–10681 Filed 4–29–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY: Federal Reserve System.

TIME AND DATE: 12 noon, Monday, May 5, 2003.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Assistant to the Board; 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: April 25, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–10717 Filed 4–25–03; 4:37 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Community/Tribal Subcommittee and the Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry: Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) announces the following subcommittee and committee meetings.

Name: Community/Tribal Subcommittee (CTS).

Time and Date: 8:30 a.m.–4:30 p.m., May 21, 2003.

Place: Embassy Suites Hotel, 1881 Curtis Street, Denver, Colorado 80202.

Status: Open to the public, limited by the available space. The meeting room accommodates approximately 50 people.

Purpose: This subcommittee brings to the Board advice, citizen input, and recommendations on community and tribal programs, practices, and policies of the Agency.

Matters To Be Discussed: Agenda items include a panel discussion on the National Policy on Military Munitions Document; Special Consultants Summary Report on Work Session Outcomes; CTS Task Force—Working Sessions; updates on the Community and Tribal Subcommittee Evaluation Process; an update on current ATSDR activities; and a review of Action Items and Recommendations.

Name: Board of Scientific Counselors, ATSDR.

Times and Dates: 8:30 a.m.–5 p.m., May 22, 2003. 8:30 a.m.–12:10 p.m., May 23, 2003.

Place: Embassy Suites Hotel, 1881 Curtis Street, Denver, Colorado, 80202.

Status: Open to the public, limited by the available space. The meeting room accommodates approximately 50 people.

Purpose: The Board of Scientific Counselors, ATSDR, advises the Secretary and the Administrator, ATSDR, on ATSDR programs to ensure scientific quality, timeliness, utility, and dissemination of results. Specifically, the Board advises on the adequacy of science in ATSDR-supported research, emerging problems that require scientific investigations, accuracy and currency of the science in ATSDR reports, and program areas to emphasize or de-emphasize. In addition, the Board recommends research programs and conference support for which the Agency awards grants to universities, colleges, research institutions, hospitals, and other public and private organizations.

Matters To Be Discussed: Agenda will include an update on ATSDR; update on bioterrorism activities and funding; discussion on the VBI–70 Site activities; discussion on Indoor Air and VOC Sites; discussion on the consolidation of ATSDR and the National Center for Environmental Health; update on the Agenda for Public Health Environmental Research, the CTS Evaluation, and the Board's Charter renewal; update on Peer Review and the Board's involvement; reports on the CTS, the Health Department Subcommittee, and the Social-Behavioral Science Workgroup; discussion of issues on perchlorates, community environmental indicators, and Rapid Response Registry; and a review of Action Items and Recommendations.

Written comments are welcomed and should be received by the contact person listed below prior to the opening of the meeting.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Robert Spengler, Sc.D., Executive Secretary, Board of Scientific Counselors, ATSDR, M/S E–28, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/498–0003.

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 CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 24, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–10636 Filed 4–29–03; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–63]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Information Collection Procedures for Requesting Public Health Assessments—(0923–0002)—Extension—The Agency for Toxic Substances and Disease Registry (ATSDR).

ATSDR is announcing the request for extension of the OMB-approved Information Collection Procedures for Requesting Public Health Assessments. ATSDR is authorized to consider petitions from the public that request public health assessments of sites where there is a threat of exposure to hazardous substances (42 U.S.C. 9604(i)(6)(B)). The Agency may conduct public health assessments of releases or facilities for which individuals provide information that people have been exposed to a hazardous substance, and for which the source of such exposure is a release, as defined under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). The general administrative procedures for conducting public health assessments, including the information that must be submitted with each request, is described at 42 CFR 90.3, 90.4, and 90.5. Procedures for responding to petitions, decision criteria, and methodology for determining priorities may be found at 57 FR 37382–89. There is no cost to the respondents other than the time required for preparing a letter and for postage.

ATSDR anticipates approximately 34 requests will be received each year. This estimate is based on the number of requests received in the past five years and the expressions of interest (via telephone, letter, etc.) from members of the public, attorneys, and industry representatives.

Respondents	Number of respondents	Number of responses/ respondent	Average burden/ response (in hrs.)	Total burden (in hrs.)
General public	34	1	30/60	17
Total				17

Dated: April 24, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–10631 Filed 4–29–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0539]

Edwin Kokes; Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the act) permanently debarring Edwin Kokes from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Mr. Kokes was convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the act. Mr. Kokes failed to request a hearing and, therefore, has waived his opportunity for a hearing concerning this action.

DATES: This order is effective April 30, 2003.

ADDRESSES: Submit applications for termination of debarment to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Carol Drew, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

On August 19, 1998, the U.S. District Court for the District of Nebraska entered judgement against Mr. Kokes for one count of mail fraud, a Federal felony offense under 18 U.S.C. 1341. This offense was committed as part of a health care fraud scheme involving the sale of unapproved drug products to patients.

As a result of this conviction, FDA served Mr. Kokes by certified mail on July 31, 2002, a notice proposing to permanently debar Mr. Kokes from providing services in any capacity to a person that has an approved or pending drug product application. The proposal also offered Mr. Kokes an opportunity for a hearing on the proposal. The debarment proposal was based on a finding, under section 306(a)(2)(B) of the act (21 U.S.C. 335a(a)(2)(B)), that Mr. Kokes was convicted of a felony under Federal law for conduct relating to the

regulation of a drug product under the act. Mr. Kokes was provided 30 days to file objections and request a hearing. Mr. Kokes did not request a hearing. His failure to request a hearing constitutes a waiver of his opportunity for a hearing and a waiver of any contentions concerning his debarment.

II. Findings and Order

Therefore, the Director, Center for Drug Evaluation and Research, under section 306(a)(2)(B) of the act, and under authority delegated to her (21 CFR 5.34), finds that Mr. Edwin Kokes has been convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the act.

As a result of the foregoing finding, Mr. Edwin Kokes is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under sections 505, 512, or 802 of the act (21 U.S.C. 355, 360b, or 382) or under section 351 of the Public Health Service Act (42 U.S.C. 262)(see sections 306(c)(1)(B) and (c)(2)(A)(ii) and 201(dd) of the act (21 U.S.C. 321(dd))). Any person with an approved or pending drug product application who knowingly uses the services of Mr. Kokes, in any capacity, during his period of debarment, will be subject to civil money penalties (section 307(a)(6) of the act (21 U.S.C. 335b(a)(6))). If Mr. Kokes, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application, he will be subject to civil money penalties (section 307(a)(7) of the act). In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Mr. Kokes during his period of debarment.

Any application by Mr. Kokes for termination of debarment under section 306(d)(4) of the act should be identified with Docket No. 01N–0539 and sent to the Dockets Management Branch (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 28, 2003.

Steven K. Galson,

Deputy Director, Center for Drug Evaluation and Research.

[FR Doc. 03–10569 Filed 4–29–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03N–0161]

Medical Devices; Reprocessed Single-Use Devices; Termination of Exemptions From Premarket Notification; Requirement for Submission of Validation Data

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a list (List I) of critical reprocessed single-use devices (SUDs) whose exemption from premarket submission is being terminated and for which validation data, as specified under the Medical Device User Fee and Modernization Act of 2002 (MDUFMA), is necessary in a premarket notification (510(k)); and a list (List II) of reprocessed SUDs that are currently subject to 510(k) requirements for which FDA has determined that validation data, as specified under MDUFMA, is necessary in a 510(k). FDA is requiring submission of these data to ensure that these reprocessed SUDs are substantially equivalent to predicate devices in accordance with MDUFMA.

DATES: These actions are effective April 30, 2003. Manufacturers of SUDs identified in List I whose exemption is being terminated must submit 510(k)s for these devices by July 30, 2004, or their devices may no longer be marketed. Manufacturers who already have clearance letters for SUDs identified in List II must submit validation data for these devices by January 30, 2004, or marketing of these devices must cease.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Comments on Lists I and II should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Barbara A. Zimmerman, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850.

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2002, MDUFMA (Pub. L. 107–250), amended the Federal Food, Drug, and Cosmetic Act (the act) by adding section 510(o) (21 U.S.C. 360(o)), which provided new regulatory requirements for reprocessed SUDs. According to this new provision, in order to ensure that reprocessed SUDs are substantially equivalent to predicate devices, 510(k)s for certain reprocessed SUDs identified by FDA must include validation data. These required validation data include cleaning and sterilization data, and functional performance data demonstrating that each SUD will remain substantially equivalent to its predicate device after the maximum number of times the device is reprocessed as intended by the person submitting the premarket notification.

Before enactment of the new law, a manufacturer of a reprocessed SUD was required to obtain premarket approval or premarket clearance for the device, unless the device was exempt from premarket submission requirements. Under MDUFMA, some previously exempt reprocessed SUDs will no longer be exempt from premarket notification requirements. Manufacturers of these identified devices will need to submit 510(k)s that include validation data to be specified by FDA. Reprocessors of certain SUDs that are currently subject to cleared 510(k)s also will need to submit the validation data specified by the agency.

In the near future, FDA will publish a guidance document providing more specific information about the types of validation data that should be submitted in premarket notification submissions for the reprocessed SUDs listed in this notice.

A. Definitions

Under section 302(b) of MDUFMA, a reprocessed SUD is defined as an ''original device that has previously been used on a patient and has been subjected to additional processing and manufacturing for the purpose of an additional single use on a patient. The subsequent processing and manufacture of a reprocessed single-use device shall result in a device that is reprocessed within the meaning of this definition.''

B. Reprocessed SUDs Exempt From Premarket Notification

Reprocessed SUDs are divided into three groups: (1) Critical, (2) semicritical, and (3) noncritical. The first two categories reflect definitions set forth in MDUFMA, and all three reflect a classification scheme recognized in

the industry.[1] These categories of devices are defined as follows:

(1) *A critical reprocessed SUD* is intended to contact normally sterile tissue or body spaces during use.

(2) *A semicritical reprocessed SUD* is intended to contact intact mucous membranes and not penetrate normally sterile areas of the body.

(3) *A noncritical reprocessed SUD* is intended to make topical contact and not penetrate intact skin.

1. Requirements for Critical Reprocessed SUDs

MDUFMA requires FDA to review the critical reprocessed SUDs that are currently exempt from premarket notification requirements and determine which of these devices require premarket notification to ensure their substantial equivalence to predicate devices. By April 26, 2003, FDA must identify in a **Federal Register** notice those critical reprocessed SUDs whose exemption from premarket notification will be terminated. List I in this **Federal Register** notice implements this MDUFMA requirement.

In accordance with MDUFMA, manufacturers of the devices identified in List I must submit 510(k)s that include validation data regarding cleaning, sterilization, and functional performance, in addition to all the other required elements of a 510(k) identified in § 807.87 (21 CFR 807.87), within 15 months of publication of this notice or no longer market their device.

2. Requirements for Semicritical Reprocessed SUDs

MDUFMA also requires FDA to review the semicritical reprocessed SUDs that are currently exempt from premarket notification requirements and determine which of these devices require premarket notification to ensure their substantial equivalence to predicate devices. FDA must identify these devices in a notice published in the **Federal Register** by April 26, 2004. Manufacturers of devices identified at that time will be required to submit 510(k)s that include validation data regarding cleaning, sterilization, and functional performance in addition to all the other required elements of a 510(k) identified in § 807.87, within 15 months of publication of that notice or no longer market their device.

3. Requirements for Noncritical Reprocessed SUDs

MDUFMA does not require FDA to take any action under this section for noncritical SUDs that are exempt from premarket submission requirements.

C. Reprocessed SUDs Already Subject to Premarket Notification Requirements

MDUFMA also requires FDA to review the types of reprocessed SUDs already subject to premarket notification requirements and to identify which of these devices require the submission of validation data to ensure their substantial equivalence to predicate devices. FDA must publish a list of these devices in the **Federal Register** by April 26, 2003, and update the list as necessary. List II of this **Federal Register** notice implements this MDUFMA requirement. The devices on List II may be critical, semicritical, or noncritical reprocessed SUDs.

1. For devices identified in List II that have not yet been cleared through the 510(k) process, manufacturers must submit 510(k)s that include validation data regarding cleaning, sterilization, and functional performance, in addition to all the other required elements of a 510(k) identified in § 807.87, upon publication of this notice in order to market these devices. FDA will soon publish guidance to help submitters understand what types of validation data should be included in these 510(k)s.

2. For devices identified in List II that already have been cleared through the 510(k) process, manufacturers must submit validation data regarding cleaning, sterilization, and functional performance within nine months of publication of this notice or marketing must cease. FDA will soon publish guidance to explain how a 510(k) holder may submit the additional data now being required to support an earlier clearance.

II. FDA's Implementation of New Section 510(o) of the Act

FDA used a number of criteria to determine which device types should be included in the lists required by MDUFMA. As part of its consideration, FDA relied upon the Review Prioritization Scheme (RPS) it described in the February 2000 draft guidance document entitled ''Reprocessing and Reuse of Single-Use Devices: Review Prioritization Scheme.''[2] In the RPS guidance, FDA set forth factors that could be used to evaluate risk associated with reprocessed SUDs. This approach assigned an overall risk to each SUD based on: (1) The risk of infection and (2) the risk of inadequate performance following reprocessing. Based on these risk factors, three categories of risk (high, moderate, and low) were developed. The designation of ''high risk'' was assigned to those devices that posed the greatest risk of infection and inadequate performance after reprocessing. In response to several comments about potential subjectivity of the RPS, FDA did not use the RPS approach when the agency finalized its enforcement priorities for reprocessed SUDs on August 14, 2000.

FDA has determined, however, that the RPS is an appropriate risk-based tool for developing the lists required by MDUFMA because the RPS identifies the devices that are likely to raise the most concerns about both infection transmission and inadequate performance following reprocessing. In formulating these lists, the agency also had the benefit of comments from stakeholders and an internal centerwide committee to evaluate the results of the RPS and ensure its consistency. In addition, there was a final review of all the devices on these lists by the Director of the Office of Device Evaluation. In this context, the agency believes these steps have adequately addressed concerns about the subjectivity of the RPS.

In addition to the previous criterion, FDA used one other criterion to identify those reprocessed SUDs that will be subject to the new requirements established by MDUFMA. The agency has included in these lists all reprocessed SUDs intended to come in contact with tissue at high risk of being infected with the causative agents of Creutzfeldt-Jakob Disease (CJD). These are generally devices intended for use in neurosurgery ophthalmology. This criterion was included in FDA's evaluation because insufficient scientific information exists at this time to establish standard methods to eliminate CJD infectious agents.

Therefore, in order to develop the two lists required by MDUFMA, FDA used the following process. First, the agency identified the types of SUDs that are being reprocessed. FDA did this by searching the 510(k) database for any 510(k)s that had been submitted for reprocessed SUDs and by asking original equipment manufacturers and reprocessors to provide information about types of devices that were being reprocessed. Second, FDA determined whether these devices are ''critical,'' ''semi-critical,'' or ''non-critical''. (These

[1] Spaulding, E.H., ''The Role of Chemical Disinfection in the Prevention of Nonsocomial Infections,'' P.S. Brachman and T.C. Eickof (ed), Proceedings of International Conference on Nonsocomial Infections, 1970, American Hospital Association, Chicago, 1971:254–274.

[2] This draft guidance document is available on the CDRH Web site at *http//www.fda.gov/cdrh/reuse/1156.pdf.*

definitions reflect the Spaulding[3] classification and are the same definitions FDA used earlier in developing its RPS.) FDA then applied the criteria described previously and ''listed'' any reprocessed SUD that was either ''high'' risk according to the RPS or intended to come in contact with tissue at high risk of being infected with the causative agents of CJD.

All devices identified in List I (previously exempt from 510(k)) have been determined to be critical reprocessed SUDs. In addition to being critical, they are either high risk according to the RPS or intended to come in contact with tissue at high risk of being infected with CJD. It should be noted that not all exempt devices that are critical have been listed. Critical reprocessed SUDs that are not listed in List I at this time may be reconsidered in subsequent updates of the list. The devices in List II (devices currently subject to 510(k) requirements that now will require the submission of validation data) are either high risk according to the RPS or intended to come in contact with tissue at high risk of being infected with the causative agents of CJD.

FDA has also provided a reference list in Attachment 1. To show how FDA evaluated the risk of a specific device, Attachment 1 includes the entire group of devices FDA considered when identifying the reprocessed SUDs in Lists I and II, and shows how FDA applied the criteria that determined whether the device would be identified on either of these lists.

In the **Federal Register** of February 4, 2003 (68 FR 5643), FDA invited interested persons to provide information and share views on the implementation of MDUFMA. The agency received several comments that identified specific reprocessed SUDs to be included in Lists I and II. The agency considered these recommendations while finalizing this document. Although FDA's lists do not include all the reprocessed SUDs that were recommended, the agency believes that those devices that pose the greatest risk of infection transmission and inadequate performance have been identified. The agency recognizes, however, that these lists may need to be re-evaluated and updated over time. Therefore, FDA will consider comments from the public on additional devices that should be included in the lists at any time. The agency also notes that MDUFMA permits FDA to request validation data for a device type that is subject to 510(k) clearance but not yet included in List II. If this were to occur, FDA would ensure that manufacturers were aware of this change in the 510(k) submission requirements for that type of device by promptly updating the list.

Finally, FDA received one comment that suggested the agency's prior determinations about risk associated with reprocessed SUDs precluded FDA from now requiring 510(k)s for devices that were previously exempt or additional data for devices that were already cleared. FDA believes that this comment ignores the existence of MDUFMA's requirements. It is true that FDA had initially developed a regulatory approach for reprocessed SUDs that sought to treat those devices and original devices in a similar manner and that FDA had not required additional data to be submitted for certain reprocessed SUDs under that approach. However, through MDUFMA Congress clearly stated its intent to have the agency re-examine its policy with respect to reprocessed SUDs and legislated additional controls for those devices. FDA is committed to fulfilling its responsibilities under MDUFMA. The development and publication of these lists is part of the agency's implementation of these new statutory provisions.

LIST I.—CRITICAL REPROCESSED SINGLE-USE DEVICES PREVIOUSLY EXEMPT FROM PREMARKET NOTIFICATION REQUIREMENTS THAT WILL NOW REQUIRE 510(K)S WITH VALIDATION DATA

[To be submitted by July 26, 2004]

21 CFR section	Classification name	Product code for Non-reprocessed device	Product code for reprocessed device	Product code name for reprocessed device
872.3240	Dental bur	Diamond Coated	NME	Dental diamond coated bur.
872.4535	Dental diamond instrument	DZP	NLD	Dental diamond instrument.
872.4730	Dental injection needle	DZM	NMW	Dental needle.
874.4140	Ear, nose, and throat bur	Microdebrider	NLY	ENT high speed microdebrider.
874.4140	Ear, nose, and throat bur	Diamond Coated	NLZ	ENT diamond coated bur.
874.4420	Ear, nose, throat manual surgical * * *	KAB, KBG, KCI	NLB	Laryngeal, Sinus, Tracheal trocar.
878.4200	Introduction/drainage catheter and accessories.	GCB	NMT	Catheter needle.
878.4800	Manual surgical instrument	MJG	NNA	Percutaneous biopsy device.
878.4800	Manual surgical instrument	FHR	NMU	Gastro-Urology needle.
878.4800	Manual surgical instrument for * * *	DWO	NLK	Cardiovascular biopsy needle.
878.4800	Manual surgical instrument for * * *	GAA	NNC	Aspiration and injection.
882.4190	Forming/cutting clip instrument	HBS	NMN	Forming/cutting clip instrument.
884.1730	Laparoscopic insufflator * * *	HIF	NMI	Laparoscopic insufflator and accessories.
884.4530	OB/GYN specialized manual instrument	HFB	NMG	Gynecological biopsy forceps.
886.4350	Manual ophthalmic surgical instrument	HNN	NLA	Ophthalmic knife.

[3] Spaulding, E. H., ''The Role of Chemical Disinfection in the Prevention of Nonsocomial Infections,'' P. S. Brachman and T. C. Eickof (ed), Proceedings of International Conference on Nonsocomial Infections, 1970, American Hospital Association, Chicago, 1971:254–274.

LIST II.—REPROCESSED SINGLE-USE DEVICES SUBJECT TO PREMARKET NOTIFICATION REQUIREMENTS THAT WILL NOW REQUIRE THE SUBMISSION OF VALIDATION DATA [1]

[Manufacturers who already have 510(k) clearance for these devices must submit validation data by January 26, 2004. Any new 510(k) will require validation data upon publication of this list.]

21 CFR section	Classification name	Product code for non-reprocessed device	Product code for reprocessed device	Product code name for reprocessed device
Unclassified	Oocyte aspiration needles	MHK	NMO	Oocyte aspiration needles.
Unclassified	Percutaneous transluminal angioplasty catheter angioplasty catheter.	LIT	NMM	Transluminal peripheral angioplasty catheter.
Unclassified	Ultrasonic surgical instrument	LFL	NLQ	Ultrasonic scalpel.
868.5150	Anesthesia conduction needle	BSP	NNH	Anesthetic conduction needle (with or without introducer).
868.5150	Anesthesia conduction needle	MIA	NMR	Short term spinal needle.
868.5730	Tracheal tube	BTR	NMA	Tracheal tube (with or without connector).
868.5905	Noncontinuous (IPPB)	BZD	NMC	Noncontinuous ventilator (respirator) mask.
870.1200	Diagnostic intravascular catheter	DQO	NLI	Angiography catheter.
870.1220	Electrode recording catheter	DRF	NLH	Electrode recording catheter.
870.1220	Electrode recording catheter	MTD	NLG	Intracardiac mapping catheter.
870.1230	Fiberoptic oximeter catheter	DQE	NMB	Fiberoptic oximeter catheter.
870.1280	Steerable catheter	DRA	NKS	Steerable catheter.
870.1290	Steerable catheter control system	DXX	NKR	Steerable catheter control system.
870.1330	Catheter guide wire	DQX	NKQ	Catheter guide wire.
870.1390	Trocar	DRC	NMK	Cardiovascular trocar.
870.1650	Angiographic injector and syringe	DXT	NKT	Angiographic injector and syringe.
870.1670	Syringe actuator for injector	DQF	NKW	Injector for actuator syringe.
870.2700	Oximeter	MUD	NMD	Tissue saturation oximeter.
870.2700	Oximeter	DQA	NLF	Oximeter.
870.3535	Intra-aortic balloon and control system.	DSP	NKO	Intra-aortic balloon and control system.
870.4450	Vascular clamp	DXC	NMF	Vascular clamp.
870.4885	External vein stripper	DWQ	NLJ	External vein stripper.
872.5470	Orthodontic plastic bracket	DYW	NLC	Orthodontic plastic bracket.
874.4680	Bronchoscope (flexible or rigid) and accessories.	BWH	NLE	Bronchoscope (nonrigid) biopsy forceps.
876.1075	Gastro-Urology biopsy instrument	FCG	NMX	G–U biopsy needle and needle set.
876.1075	Gastroenterology-urology biopsy instrument.	KNW	NLS	Biopsy instrument.
876.1500	Endoscope and accessories	FBK, FHP	NMY	Endoscopic needle.
876.1500	Endoscope and accessories	MPA	NKZ	Endoilluminator.
876.1500	Endoscope and accessories	GCJ	NLM	General and plastic surgery laparoscope.
876.1500	Endoscope and accessories	FHO	NLX	Spring-loaded Pneumoperitoneum Needle.
876.4300	Endoscopic electrosurgical unit and accessories.	FAS	NLW	Active urological electrosurgical electrode.
876.4300	Endoscopic unit accessories	FEH	NLV	Flexible suction coagulator electrode.
876.4300	Endoscopic electrosurgical unit and accessories.	KGE	NLU	Electric biopsy forceps.
876.4300	Endoscopic electrosurgical unit and accessories.	FDI	NLT	Flexible snare.
876.4300	Endoscopic electrosurgical unit and accessories.	KNS	NLR	Endoscopic (with or without accessories) Electrosurgical unit.
876.5010	Biliary catheter and accessories	FGE	NML	Biliary catheter.
876.5540	Blood access device and accessories.	LBW	NNF	Single needle dialysis set (co-axial flow).
876.5540	Blood access device and accessories.	FIE	NNE	Fistula needle.
876.5820	Hemodialysis systems and accessories.	FIF	NNG	Single needle dialysis set with and accessories uni-directional pump.
878.4300	Implantable clip	FZP	NMJ	Implantable clip.
878.4750	Implantable staple	GDW	NLL	Implantable staple.
880.5570	Hypodermic single lumen needle	FMI	NKK	Hypodermic single lumen needle.
880.5860	Piston syringe	FMF	NKN	Piston syringe.
882.4300	Manual cranial drills, burrs, trephines and accessories.	HBG	NLO	(Manual) drills, burrs, burrs, trephines and accessories.
882.4305	Powered compound cranial drills, burrs, trephines	HBF	NLP	(Powered, compound) drills, burrs, trephines and accessories.
882.4310	Powered simple cranial drills, burrs, trephines.	HBE	NLN	(Simple, powered) drills, burrs, trephines and accessories.
884.1720	Gynecologic laparoscope and accessories.	HET	NMH	Gynecologic laparoscope (and accessories).
884.6100	Assisted reproduction needle	MQE	NNB	Assisted reproduction needle.
886.4370	Keratome	HMY, HNO	NKY	Keratome blade.
886.4670	Phacofragmentation system	HQC	NKX	Phacoemulsification needle.

LIST II.—REPROCESSED SINGLE-USE DEVICES SUBJECT TO PREMARKET NOTIFICATION REQUIREMENTS THAT WILL NOW REQUIRE THE SUBMISSION OF VALIDATION DATA [1]—Continued

[Manufacturers who already have 510(k) clearance for these devices must submit validation data by January 26, 2004. Any new 510(k) will require validation data upon publication of this list.]

21 CFR section	Classification name	Product code for non-reprocessed device	Product code for reprocessed device	Product code name for reprocessed device
892.5730	Radionuclide brachytherapy source.	IWF	NMP	Isotope needle.

[1] Hemodialyzers have been excluded from this list because the reuse of hemodialyzers is addressed in ''Guidance for Hemodialyzer Reuse Labeling'' (final draft issued on October 6, 1995).

III. Comments

You may submit written or electronic comments on these lists to the Dockets Management Branch (see **ADDRESSES**). You may submit a single copy of an electronic comment to *http://www.fda.gov/dockets/ecomments*. You should submit two copies of any mailed comments but individuals may submit one copy. You should identify your comment with the docket number found in brackets in the heading of this document. You may see any comments FDA receives in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

ATTACHMENT 1.—LIST OF SUDS KNOWN TO BE REPROCESSED OR CONSIDERED FOR REPROCESSING

	Medical specialty	Device type	Regulation No.	Class	Product code	Risk [1,2,3,3*]	Critical/semi-critical/non-critical	Premarket exempt
1	Cardio	Cardiopulmonary Bypass Marker ..	Unclassified		MAB	1	C	N
2	Cardio	Percutaneous & Operative Transluminal Coronary Angioplasty Catheter (PCTA).	post amendment	III	LOX	3	C	N
3	Cardio	Percutaneous Ablation Electrode ..	Post amendment	III	LPB	3	C	N
4	Cardio	Peripheral Transluminal Angioplasty (PTA) Catheter.	Unclassified		LIT	3	C	N
5	Cardio	Blood-Pressure Cuff	870.1120	II	DXQ	1	N	N
6	Cardio	Angiography Catheter	870.1200	II	DQO	3	C	N
7	Cardio	Electrode Recording Catheter	870.1220	II	DRF	3	C	N
8	Cardio	High-Density Array Catheter	870.1220	II	MTD	3	C	N
9	Cardio	Fiberoptic Oximeter Catheter	870.1230	II	DQE	3	C	N
10	Cardio	Steerable Catheter	870.1280	II	DRA	3	C	N
11	Cardio	Steerable Catheter Control System	870.1290	II	DXX	3	C	N
12	Cardio	Guide Wire	870.1330	II	DQX	3	C	N
13	Cardio	Angiographic Needle	870.1390	II	DRC	3	C	N
14	Cardio	Trocar	870.1390	II	DRC	3	C	N
15	Cardio	Syringes	870.1650	II	DXT	3	C	N
16	Cardio	Injector Type Syringe Actuator	870.1670	II	DQF	3	C	N
17	Cardio	Oximeter	870.2700	II	DQA	3	N	N
18	Cardio	Tissue Saturation Oximeter	870.2700	II	MUD	3	C	N
19	Cardio	Intra-Aortic Balloon System	870.3535	III	DSP	3	C	N
20	Cardio	Vascular Clamp	870.4450	II	DXC	3	C	N
21	Cardio	Device, Stabilizer, Heart	870.4500	I	MWS	2	C	Y
22	Cardio	External Vein Stripper	870.4885	II	DWQ	3	C	N
23	Cardio	Compressible Limb Sleeve	870.5800	II	JOW	1	N	N
24	Dental	Bur	872.3240	I	EJL	1	C	Y
25	Dental	Diamond Coated Bur	872.3240	I	EJL	3	C	Y
26	Dental	Diamond Instrument	872.4535	I	DZP	3	C	Y
27	Dental	AC-Powered Bone Saw	872.4120	II	DZH	2	C	N
28	Dental	Manual Bone Drill and Wire Driver	872.4120	II	DZJ	2	C	N
29	Dental	Powered Bone Drill	872.4120	II	DZI	2	C	N
30	Dental	Intraoral Drill	872.4130	I	DZA	1	C	Y
31	Dental	Injection Needle	872.4730	I	DZM	3	C	Y
32	Dental	Metal Orthodontic Bracket	872.5410	I	EJF	3	S	Y
33	Dental	Plastic Orthodontic Bracket	872.5470	II	DYW	3	S	N
34	ENT	Bur	874.4140	I	EQJ	1	C	Y
35	ENT	Diamond Coated Bur	874.4140	I	EQJ	3	C	Y
36	ENT	Microdebrider	874.4140	I	EQJ	3	C	Y
37	ENT	Microsurgical Argon Fiber Optic Laser Cable, For Uses Other Than Otology, Including Laryngology & General Use In Otolarngology.	874.4490	II	LMS	1	S	N
38	ENT	Microsurgical Argon Fiber Optic Laser Cable, For Use In Otology.	874.4490	II	LXR	1	S	N

ATTACHMENT 1.—LIST OF SUDS KNOWN TO BE REPROCESSED OR CONSIDERED FOR REPROCESSING—Continued

	Medical specialty	Device type	Regulation No.	Class	Product code	Risk [1,2,3,3*]	Critical/semi-critical/non-critical	Premarket exempt
39	ENT	Microsurgical Carbon-Dioxide Fiber Optic Laser Cable.	874.4500	II	EWG	1	S	N
40	ENT	Bronchoscope Biopsy Forceps (Non-Rigid).	874.4680	II	BWH	3	S	N
41	ENT	Bronchoscope Biopsy Forceps (Rigid).	874.4680	II	JEK	1	S	N
42	Gastro/Urology.	Biopsy Forceps Cover	876.1075	I	FFF	1	S	Y
43	Gastro/Urology.	Biopsy Instrument	876.1075	II	KNW	3	S	N
44	Gastro/Urology.	Biopsy Needle Set	876.1075	II	FCG	3	S	N
45	Gastro/Urology.	Biopsy Punch	876.1075	II	FCI	2	S	N
46	Gastro/Urology.	Mechanical Biopsy Instrument	876.1075	II	FCF	2	S	N
47	Gastro/Urology.	Non-Electric Biopsy Forceps	876.1075	I	FCL	3	S	Y
48	Gastro/Urology.	Cytology Brush For Endoscope	876.1500	II	FDX	2	S	N
49	Gastro/Urology.	Endoscope Accessories	876.1500	II	KOG	2	S	N
50	Gastro/Urology.	Extraction Balloons/Baskets	876.1500	II	KOG	2	S	N
51	Gastro/Urology.	Endoscopic Needle	876.1500	II	FBK	3	C	N
52	Gastro/Urology.	Simple Pneumoperitoneum Needle	876.1500	II	FHP	3	C	N
53	Gastro/Urology.	Spring Loaded Pneumoperitoneum Needle.	876.1500	II	FHO	3	C	N
54	Gastro/Urology.	Active Electrosurgical Electrode	876.4300	II	FAS	3	S	N
55	Gastro/Urology.	Biliary Sphincterotomes	876.5010, 876.1500	II	FGE	3	S	N
56	Gastro/Urology.	Electric Biopsy Forceps	876.4300	II	KGE	3	S	N
57	Gastro/Urology.	Electrosurgical Endoscopic Unit (With Or Without Accessories).	876.4300	II	KNS	3	S	N
58	Gastro/Urology.	Flexible Snare	876.4300	II	FDI	3	S	N
59	Gastro/Urology.	Flexible Suction Coagulator Electrode.	876.4300	II	FEH	3	S	N
60	Gastro/Urology.	Flexible Stone Dislodger	876.4680	II	FGO	3	S	Y
61	Gastro/Urology.	Metal Stone Dislodger	876.4680	II	FFL	3	S	Y
62	Gastro/Urology.	Needle Holder	876.4730	I	FHQ	1	C	Y
63	Gastro/Urology.	Non-Electrical Snare	876.4730	I	FGX	1	S	Y
64	Gastro/Urology.	Urological Catheter	876.5130	II	KOD	2	S	N
65	Gastro/Urology.	Single Needle Dialysis Set	876.5540	II	LBW, FIE	3	C	N
66	Gastro/Urology.	Hemodialysis Blood Circuit Accessories.	876.5820	II	KOC	2	S	N
67	Gastro/Urology.	Single Needle Dialysis Set	876.5820	II	FIF	3	C	N
68	GE/U	Hemorrhoidal Ligator	876.4400	II	FHN	2	C	N
69	General Hospital	Implanted, Programmable Infusion Pump.	Post-amendment	III	LKK	3	C	N
70	General Hospital	Needle Destruction Device	Post-amendment	III	MTV	1	N	N
71	General Hospital	Non-Powered Flotation Therapy Mattress.	880.5150	I	IKY	2	N	Y
72	General Hospital	Non AC-Powered Patient Lift	880.5510	I	FSA	2	N	Y
73	General Hospital	Alternating Pressure Air Flotation Mattress.	880.5550	II	FNM	1	N	Y

ATTACHMENT 1.—LIST OF SUDS KNOWN TO BE REPROCESSED OR CONSIDERED FOR REPROCESSING—Continued

	Medical specialty	Device type	Regulation No.	Class	Product code	Risk [1,2,3,3*]	Critical/semi-critical/non-critical	Premarket exempt
74	General Hospital	Temperature Regulated Water Mattress.	880.5560	I	FOH	2	N	Y
75	General Hospital	Hypodermic Single Lumen Needle	880.5570	II	FMI	3	C	N
76	General Hospital	Piston Syringe	880.5860	II	FMF	3	C	N
77	General Hospital	Mattress Cover (Medical Purposes).	880.6190	I	FMW	2	N	Y
78	General Hospital	Disposable Medical Scissors	880.6820	I	JOK	1	N	Y
79	General Hospital	Irrigating Syringe	880.6960	I	KYZ, KYY	1	C	Y
80	Infection Control	Surgical Gowns	878.4040	II	FYA	1	C	N
81	Lab	Blood Lancet	878.4800	I	FMK	1	C	Y
82	Neuro	Clip Forming/Cutting Instrument,	882.4190	I	HBS	3*	C	Y
83	Neuro	Drills, Burrs, Trephines & Accessories (Manual).	882.4300	II	HBG	3*	C	N
84	Neuro	Drills, Burrs, Trephines & Accessories (Compound, Powered).	882.4305	II	HBF	3*	C	N
85	Neuro	Drills, Burrs, Trephines & Accessories (Simple, Powered).	882.4310	II	HBE	3*	C	N
86	OB/GYN	Oocyte aspiration needle	Unclassified	II	MHK	3	C	N
87	OB/GYN	Laparoscope Accessories	884.1720	I	HET	2	C	Y
88	OB/GYN	Laparoscope Accessories	884.1720	II	HET	3	C	N
89	OB/GYN	Laparoscopic Dissectors	884.1720	I	HET	2	C	Y
90	OB/GYN	Laparoscopic Graspers	884.1720	I	HET	2	C	Y
91	OB/GYN	Laparoscopic Scissors	884.1720	I	HET	2	C	Y
92	OB/GYN	Insufflator Accessories (tubing, Verres needle, kits).	884.1730	II	HIF	3	C	Y
93	OB/GYN	Laparoscopic Insufflator	884.1730	II	HIF	2	N	N
94	OB/GYN	Endoscopic Electrocautery And Accessories.	884.4100	II	HIM	2	N	N
95	OB/GYN	Gynecologic Electrocautery (And Accessories).	884.4120	II	HGI	2	N	N
96	OB/GYN	Endoscopic Bipolar Coagulator-Cutter (And Accessories).	884.4150	II	HIN	2	N	N
97	OB/GYN	Culdoscopic Coagulator (And Accessories).	884.4160	II	HFI	2	N	N
98	OB/GYN	Endoscopic Unipolar Coagulator-Cutter (And Accessories).	884.4160	II	KNF	2	N	N
99	OB/GYN	Hysteroscopic Coagulator (And Accessories).	884.4160	II	HFH	2	N	N
100	OB/GYN	Unipolar Laparoscopic Coagulator (And Accessories).	884.4160	II	HFG	2	N	N
101	OB/GYN	Episiotomy Scissors	884.4520	I	HDK	1	C	Y
102	OB/GYN	Umbilical Scissors	884.4520	I	HDJ	1	C	Y
103	OB/GYN	Biopsy Forceps	884.4530	I	HFB	3	C	Y
104	OB/GYN	Assisted reproduction needle	884.6100	II	MQE	3	C	N
105	Ophthalmic	Endoilluminator	876.1500	II	MPA	3*	C	N
106	Ophthalmic	Surgical Drapes	878.4370	II	KKX	2	C	N
107	Ophthalmic	Ophthalmic Knife	886.4350	I	HNN	3	C	Y
108	Ophthalmic	Keratome Blade	886.4370	Inot exempt	HMY, HNO	3	C	N
109	Ophthalmic	Phacoemulsification Needle	886.4670	II	HQC	3	C	N
110	Ophthalmic	Phacoemulsification/ Phacofragmentation Fluidic.	886.4670	II	MUS	2	C	N
111	Ophthalmic	Phacofragmentation Unit	886.4670	II	HQC	1	N	N
112	Ortho	Saw Blades	878.4820	I	GFA, DWH, GEY, GET	1	C	Y
113	Ortho	Surgical Drills	878.4820	I	GEY, GET	1	C	Y
114	Ortho	Arthroscope accessories	888.1100	II	HRX	2	C	Y
115	Ortho	Bone Tap	888.4540	I	HWX	1	C	Y
116	Ortho	Burr	888.4540	I	HTT	1	C	Y
117	Ortho	Carpal Tunnel Blade	888.4540	I	LXH	2	C	Y
118	Ortho	Countersink	888.4540	I	HWW	1	C	Y
119	Ortho	Drill Bit	888.4540	I	HTW	1	C	Y

ATTACHMENT 1.—LIST OF SUDS KNOWN TO BE REPROCESSED OR CONSIDERED FOR REPROCESSING—Continued

	Medical specialty	Device type	Regulation No.	Class	Product code	Risk [1,2,3,3*]	Critical/semi-critical/non-critical	Premarket exempt
120 ..	Ortho	Knife	888.4540	I	HTS	1	C	Y
121 ..	Ortho	Manual Surgical Instrument	888.4540	I	LXH	1	C	Y
122 ..	Ortho	Needle Holder	888.4540	I	HXK	1	C	Y
123 ..	Ortho	Reamer	888.4540	I	HTO	1	C	Y
124 ..	Ortho	Rongeur	888.4540	I	HTX	1	C	Y
125 ..	Ortho	Scissors	888.4540	I	HRR	1	C	Y
126 ..	Ortho	Staple Driver	888.4540	I	HXJ	1	C	Y
127 ..	Ortho	Trephine	888.4540	I	HWK	1	C	Y
128 ..	Ortho	Flexible Reamers/Drills	886.4070 878.4820	I	GEY, HRG	1	C	Y
129 ..	Ortho	External Fixation Frame	888.3040 888.3030	II	JEC KTW KTT	2	N	N
130 ..	Physical ..... Medicine	Non-Heating Lamp for Adjunctive Use Inpatient Therapy.	Unclassified		NHN	1	N	N
131 ..	Physical ..... Medicine	Electrode Cable, ...	890.1175	II	IKD	1	N	Y
132 ..	Physical ..... Medicine	External Limb Component, Hip Joint.	890.3420	I	ISL	2	N	Y
133 ..	Physical ..... Medicine	External Limb Component, Knee Joint.	890.3420	I	ISY	2	N	Y
134 ..	Physical ..... Medicine	External Limb Component, Mechanical Wrist.	890.3420	I	ISZ	2	N	Y
135 ..	Physical ..... Medicine	External Limb Component, Shoulder Joint.	890.3420	I	IQQ	2	N	Y
136 ..	Plastic ..... Surgery	Stapler	878.4800	I	GAG, GEF, FHM, HBT	2	C	Y
137 ..	Radiology	Isotope Needle	892.5730	II	IWF	3	C	N
138 ..	Resp	Endotracheal Tube Changer	Unclassified	III	LNZ	3	C	N
139 ..	Resp	Anesthesia conduction needle	868.5150	II	BSP	3	C	N
140 ..	Resp	Short term spinal needle	868.5150	II	MIA	3	C	N
141 ..	Resp	Respiratory Therapy And Anesthesia Breathing Circuits.	868.5240	I	CAI	2	S	Y
142 ..	Resp	Oral And Nasal Catheters	868.5350	I	BZB	1	C	Y
143 ..	Resp	Gas Masks	868.5550	I	BSJ	1	S	Y
144 ..	Resp	Breathing Mouthpiece	868.5620	I	BYP	1	N	Y
145 ..	Resp	Tracheal Tube	868.5730	II	BTR	3	C	N
146 ..	Resp	Airway Connector	868.5810	I	BZA	2	S	Y
147 ..	Resp	CPAP Mask	868.5905	II	BZD	3	S	N
148 ..	Resp	Emergency Manual Resuscitator ..	868.5915	II	BTM	2	S	N
149 ..	Resp	Tracheobronchial Suction Catheter	868.6810	I	BSY	3	S	Y
150 ..	Surgery	AC-powered Orthopedic Instrument and accessories.	Unclassified		HWE	2	C	N
151 ..	Surgery	Breast Implant Mammary Sizer	Unclassified		MRD	1	C	N
152 ..	Surgery	Ultrasonic Surgical Instrument	Unclassified		LFL	3	C	N
153 ..	Surgery	Trocar	874.4420	I	KAB, KBG, KCI	3	C	Y
154 ..	Surgery	Endoscopic Blades	876.1500	II	GCP, GCR	2	C	N
155 ..	Surgery	Endoscopic Guidewires	876.1500	II	GCP, GCR	1	C	N
156 ..	Surgery	Inflatable External Extremity Splint	878.3900	I	FZF	1	N	Y
157 ..	Surgery	Noninflatable External Extremity Splint.	878.3910	I	FYH	1	N	Y
158 ..	Surgery	Catheter needle	878.4200	I	GCB	3	C	Y
159 ..	Surgery	Implantable Clip	878.4300	II	FZP	3	C	N
160 ..	Surgery	Electrosurgical And Coagulation Unit With Accessories.	878.4400	II	BWA	2	C	N
161 ..	Surgery	Electrosurgical Apparatus	878.4400	II	HAM	2	C	N
162 ..	Surgery	Electrosurgical Cutting & Coagulation Device & Accessories.	878.4400	II	GEI	2	C	N
163 ..	Surgery	Electrosurgical Device	878.4400	II	DWG	2	C	N
164 ..	Surgery	Electrosurgical Electrode	878.4400	II	JOS	2	C	N
165 ..	Surgery	Implantable Staple, Clamp, Clip for Suturing Apparatus.	878.4750	II	GDW	3	C	N
166 ..	Surgery	Percutaneous biopsy device	878.4800	I	MJG	3	C	Y
167 ..	Surgery	Gastro-Urology needle	878.4800	I	FHR	3	C	Y

ATTACHMENT 1.—LIST OF SUDS KNOWN TO BE REPROCESSED OR CONSIDERED FOR REPROCESSING—Continued

	Medical specialty	Device type	Regulation No.	Class	Product code	Risk [1,2,3,3*]	Critical/semi-critical/non-critical	Premarket exempt
168 ..	Surgery	Aspiration and injection needle	878.4800	I	GAA	3	C	Y
169 ..	Surgery	Biopsy Brush	878.4800	I	GEE	1	C	Y
170 ..	Surgery	Blood Lancet	878.4800	I	FMK	1	C	Y
171 ..	Surgery	Bone Hook	878.4800	I	KIK	1	C	Y
172 ..	Surgery	Cardiovascular Biopsy Needle	878.4800	I	DWO	3	C	Y
173 ..	Surgery	Clamp	878.4800	I	GDJ	1	C	Y
174 ..	Surgery	Clamp	878.4800	I	HXD	1	C	Y
175 ..	Surgery	Curette	878.4800	I	HTF	1	C	Y
176 ..	Surgery	Disposable Surgical Instrument	878.4800	I	KDC	1	C	Y
177 ..	Surgery	Disposable Vein Stripper	878.4800	I	GAJ	1	C	Y
178 ..	Surgery	Dissector	878.4800	I	GDI	1	C	Y
179 ..	Surgery	Forceps	878.4800	I	GEN	2	C	Y
180 ..	Surgery	Forceps	878.4800	I	HTD	2	C	Y
181 ..	Surgery	Gouge	878.4800	I	GDH	1	C	Y
182 ..	Surgery	Hemostatic Clip Applier	878.4800	I	HBT	2	C	Y
183 ..	Surgery	Hook	878.4800	I	GDG	1	C	Y
184 ..	Surgery	Manual Instrument	878.4800	I	MDM, MDW	1	C	Y
185 ..	Surgery	Manual Retractor	878.4800	I	GZW	1	C	Y
186 ..	Surgery	Manual Saw And Accessories	878.4800	I	GDR HAC	1	C	Y
187 ..	Surgery	Manual Saw And Accessories	878.4800	I	HAC	1	C	Y
188 ..	Surgery	Manual Surgical Chisel	878.4800	I	FZO	1	C	Y
189 ..	Surgery	Mastoid Chisel	878.4800	I	JYD	1	C	Y
190 ..	Surgery	Orthopedic Cutting Instrument	878.4800	I	HTZ	1	C	Y
191 ..	Surgery	Orthopedic Spatula	878.4800	I	HXR	1	C	Y
192 ..	Surgery	Osteotome	878.4800	I	HWM	1	C	Y
193 ..	Surgery	Rasp	878.4800	I	GAC	1	C	Y
194 ..	Surgery	Rasp	878.4800	I	HTR	1	C	Y
195 ..	Surgery	Retractor	878.4800	I	GAD	1	C	Y
196 ..	Surgery	Retractor	878.4800	I	HXM	1	C	Y
197 ..	Surgery	Saw	878.4800	I	HSO	1	C	Y
198 ..	Surgery	Scalpel Blade	878.4800	I	GES	1	C	Y
199 ..	Surgery	Scalpel Handle	878.4800	I	GDZ	1	C	Y
200 ..	Surgery	Scissors	878.4800	I	LRW	1	C	Y
201 ..	Surgery	Snare	878.4800	I	GAE	1	C	Y
202 ..	Surgery	Spatula	878.4800	I	GAF	1	C	Y
203 ..	Surgery	Staple Applier	878.4800	I	GEF	2	C	Y
204 ..	Surgery	Stapler	878.4800	I	GAG	2	C	Y
205 ..	Surgery	Stomach And Intestinal Suturing Apparatus.	878.4800	I	FHM	2	C	Y
206 ..	Surgery	Surgical Curette	878.4800	I	FZS	1	C	Y
207 ..	Surgery	Surgical Cutter	878.4800	I	FZT	1	C	Y
208 ..	Surgery	Surgical Knife	878.4800	I	EMF	1	S	Y
209 ..	Surgery	Laser Powered Instrument	878.4810	II	GEX	2	C	N
210 ..	Surgery	Ac-Powered Motor	878.4820	I	GEY	2	C	Y
211 ..	Surgery	Bit	878.4820	I	GFG	1	C	Y
212 ..	Surgery	Bur	878.4820	I	GFF, GEY	1	C	Y
213 ..	Surgery	Cardiovascular Surgical Saw Blade.	878.4820	I	DWH	1	C	Y
214 ..	Surgery	Chisel (Osteotome)	878.4820	I	KDG	1	C	Y
215 ..	Surgery	Dermatome	878.4820	I	GFD	1	C	Y
216 ..	Surgery	Electrically Powered Saw	878.4820	I	DWI	2	C	Y
217 ..	Surgery	Pneumatic Powered Motor	878.4820	I	GET	2	C	Y
218 ..	Surgery	Pneumatically Powered Saw	878.4820	I	KFK	2	C	Y
219 ..	Surgery	Powered Saw And Accessories	878.4820	I	HAB	2	C	Y
220 ..	Surgery	Saw Blade	878.4820	I	GFA	1	C	Y
221 ..	Surgery	Nonpneumatic Tourniquet	878.5900	I	GAX	1	N	Y
222 ..	Surgery	Pneumatic Tourniquet	878.5910	I	KCY	1	N	Y
223 ..	Surgery	Enodoscopic Staplers	888.4540	I	HXJ	2	C	Y
224 ..	Surgery	Trocar	876.1500 870.1390	II	GCJ, DRC	3	C	N
225 ..	Surgery	Surgical Cutting Accessories	878.4800, 874.4420	I	GDZ, GDX, GES, KBQ, KAS	2	C	Y
226 ..	Surgery	Electrosurgical Electrodes/Handles/Pencils.	876.4300 878.4400	II	HAM, GEI, FAS	2	C	N

ATTACHMENT 1.—LIST OF SUDS KNOWN TO BE REPROCESSED OR CONSIDERED FOR REPROCESSING—Continued

	Medical specialty	Device type	Regulation No.	Class	Product code	Risk [1,2,3,3*]	Critical/semi-critical/non-critical	Premarket exempt
227 ..	Surgery	Scissor Tips	878.4800, 884.4520, 874.4420	I	LRW, HDK, HDJ, JZB, KBD	2	C	Y
228 ..	Surgery	Laser Fiber Delivery Systems	878.4810 874.4500 886.4390 884.4550 886.4690	II	GEX EWG LLW HQF HHR HQB	1	C	N

1 = low risk according to RPS
2 = moderate risk according to RPS
3 = high risk according to RPS
3* = high risk due to neurological use

Dated: April 23, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Publication of OIG Special Advisory Bulletin on Contractual Joint Ventures

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice.

SUMMARY: The OIG periodically develops and issues guidance, including Special Advisory Bulletins, to alert and inform the health care industry about potential problems or areas of special interest. This **Federal Register** notice sets forth the recently issued OIG Special Advisory Bulletin addressing certain contractual joint venture arrangements.

FOR FURTHER INFORMATION CONTACT: Vicki Robinson or Joel Schaer, Office of Counsel to the Inspector General, (202) 619–0335.

SUPPLEMENTARY INFORMATION:

Special Advisory Bulletin: Contractual Joint Ventures (April 2003)

Introduction

This Special Advisory Bulletin addresses certain complex contractual arrangements for the provision of items and services previously identified as suspect in our 1989 Special Fraud Alert on Joint Venture Arrangements.[1] While much of the discussion in the 1989 Special Fraud Alert focused on investor referrals to newly formed entities, we observed that:

> [t]he Office of Inspector General has become aware of a proliferation of arrangements between those in a position to refer business, such as physicians, and those providing items or services for which Medicare or Medicaid pays. Some examples of the items or services provided in these arrangements include clinical diagnostic laboratory services, durable medical equipment (DME), and other diagnostic services. Sometimes these deals are called ''joint ventures.'' *A joint venture may take a variety of forms: it may be a contractual arrangement between two or more parties to cooperate in providing services,* or it may involve the creation of a new legal entity by the parties, such as a limited partnership or closely held corporation, to provide such services. (Emphasis added.)

Notwithstanding that caution, the Office of Inspector General (OIG) is concerned that contractual joint venture arrangements are proliferating.[2]

A. Questionable Contractual Arrangements

The federal anti-kickback statute, section 1128B(b) of the Social Security Act (the Act), prohibits knowingly and willfully soliciting, receiving, offering, or paying anything of value to induce referrals of items or services payable by a federal health care program. Kickbacks are harmful because they can (1) distort medical decision-making, (2) cause overutilization, (3) increase costs to the federal health care programs, and (4) result in unfair competition by freezing out competitors unwilling to pay kickbacks. Both parties to an impermissible kickback transaction may be liable. Violation of the statute constitutes a felony punishable by a maximum fine of $25,000, imprisonment up to 5 years, or both. The OIG may also initiate administrative proceedings to exclude persons from the federal health care programs or to impose civil money penalties for kickback violations under sections 1128(b)(7) and 1128A(a)(7) of the Act.

This Special Advisory Bulletin focuses on questionable contractual arrangements where a health care provider in one line of business (hereafter referred to as the ''Owner'') expands into a related health care business by contracting with an existing provider of a related item or service (hereafter referred to as the ''Manager/Supplier'') to provide the new item or service to the Owner's existing patient population, including federal health care program patients. The Manager/Supplier not only manages the new line of business, but may also supply it with inventory, employees, space, billing, and other services. In other words, the Owner contracts out substantially the entire operation of the related line of business to the Manager/Supplier—otherwise a potential competitor—receiving in return the profits of the business as remuneration for its federal program referrals.

Some examples of potentially problematic contractual arrangements include the following:

[1] The 1989 Special Fraud Alert was reprinted in the **Federal Register** in 1994. *See* 59 FR 65372 (December 19, 1994). The Special Fraud Alert is also available on our Web page at *http://oig.hhs.gov/fraud/docs/alertsandbulletins/121994.html.*

[2] The kinds of contractual arrangements addressed in this Special Advisory Bulletin are sometimes referred to as ''joint ventures'' or ''contractual joint ventures'' or may be referenced by other terminology. For purposes of the analysis set forth in this Bulletin, a ''joint venture'' is any common enterprise with mutual economic benefit. The application of this Bulletin is not limited to ''joint ventures'' that meet technical qualifications under applicable state or common law.

• A hospital establishes a subsidiary to provide DME. The new subsidiary enters into a contract with an existing DME company to operate the new subsidiary and to provide the new subsidiary with DME inventory. The existing DME company already provides DME services comparable to those provided by the new hospital DME subsidiary and bills insurers and patients for them.

• A DME company sells nebulizers to federal health care beneficiaries. A mail order pharmacy suggests that the DME company form its own mail order pharmacy to provide nebulizer drugs. Through a management agreement, the mail order pharmacy runs the DME company's pharmacy, providing personnel, equipment, and space. The existing mail order pharmacy also sells all nebulizer drugs to the DME company's pharmacy for its inventory.

• A group of nephrologists establishes a wholly-owned company to provide home dialysis supplies to their dialysis patients. The new company contracts with an existing supplier of home dialysis supplies to operate the new company and provide all goods and services to the new company.

These problematic arrangements typically exhibit certain common elements. First, the Owner expands into a related line of business, which is dependent on referrals from, or other business generated by, the Owner's existing business.[3] The new business line may be organized as a part of the existing entity or as a separate subsidiary. Typically, the new business primarily serves the Owner's existing patient base.

Second, the Owner neither operates the new business itself nor commits substantial financial, capital, or human resources to the venture. Instead, it contracts out substantially all the operations of the new business. The Manager/Supplier typically agrees to provide not only management services, but also a range of other services, such as the inventory necessary to run the business, office and health care personnel, billing support, and space. While the Manager/Supplier essentially operates the business, the billing of insurers and patients is done in the name of the Owner. In many cases, the contractual arrangements result in either practical or legal exclusivity for the Manager/Supplier through inclusion of non-competition provisions or restrictions on access. While the contract terms of these arrangements may appear to place the Owner at financial risk, the Owner's actual business risk is minimal because of the Owner's ability to influence substantial referrals to the new business.

Third, the Manager/Supplier is an established provider of the same services as the Owner's new line of business. In other words, absent the contractual arrangement, the Manager/Supplier would be a competitor of the new line of business, providing items and services in its own right, billing insurers and patients in its own name, and collecting reimbursement.

Fourth, the Owner and the Manager/Supplier share in the economic benefit of the Owner's new business. The Manager/Supplier takes its share in the form of payments under the various contracts with the Owner; the Owner receives its share in the form of the residual profit from the new business.

Fifth, aggregate payments to the Manager/Supplier typically vary with the value or volume of business generated for the new business by the Owner. While in some arrangements certain payments are fixed (for example, the management fee), other payments, such as payments for goods and services supplied by the Manager/Supplier, will vary based on the number of goods and services provided. In other words, the aggregate payment to the Manager/Supplier from the whole arrangement will vary with referrals from the Owner. Likewise, the Owner's payments, that is, the difference between the net revenues from the new business and its expenses (including payments to the Manager/Supplier), also vary based on the Owner's referrals to the new business. Through these contractual payments, the parties are able to share the profits of the new line of business.

B. Safe Harbor Protection May Be Unavailable

Under the kickback statute, a number of statutory and regulatory ''safe harbors'' immunize certain arrangements that might otherwise violate the anti-kickback statute. (*See* 42 U.S.C. 1320a-7b(b)(3); 42 CFR 1001.952.) To qualify for safe harbor protection, an arrangement must fit squarely in one of these safe harbor provisions. Some parties attempt to carve otherwise problematic contracting arrangements into several different contracts for discrete items or services (*e.g.*, a management contract, a vendor contract, and a staffing contract), and then qualify each separate contract for protection under a ''safe harbor.'' Such efforts may be ineffectual and leave the parties subject to prosecution for the following reasons.

First, many of these questionable joint venture arrangements involve contracts pursuant to which the Manager/Suppliers agree to sell items and services to the Owners at a discounted price. However, where a discount is given as part of an overarching business arrangement, it cannot qualify for protection under the discount safe harbor. Simply put, the discount safe harbor does not protect—and has never protected—prices offered by a seller to a buyer in connection with a common enterprise. To be protected under the discount safe harbor, a price reduction must be based on an arms length transaction. (*See* 42 CFR 1001.952(h) under which ''the term *discount* means a reduction in the amount a buyer * * * is charged for an item or service based on an arms-length transaction.''). As we expressly stated in the preamble to the 1991 safe harbor regulations, the provision of items or services to a joint venture by a participant in the venture is not an ''arms length'' transaction:

> Another problem exists where an entity, which is both a provider and supplier of items or services and joint venture partner with referring physicians, makes discounts to the joint venture as a way to share its profits with the physician partners. Very often this entity furnishes items or services to the joint venture, and also acts as the joint venture's general partner or provides management services to the joint venture. * * * *These arrangements are not arms length transactions where the joint venture shops around for the best price on a good or service. Rather it has entered into a collusive arrangement with a particular provider or supplier of items or services that seeks to share its profits with referring physician partners. [We did] * * * not intend to protect these types of transactions which are sometimes made to appear as ''discounts''* * * (Emphasis added) (*See* 56 FR 35977; July 29, 1991).

In short, a discount is not based on arms length transaction if it is provided by a seller to a purchaser in connection with a common venture, regardless of whether the venture is memorialized in separate contracts.

Second, even if the various contracts could fit in one or more safe harbors, they would only protect the remuneration flowing from the Owner to the Manager/Supplier for actual services rendered. In the contractual arrangements that are the subject of this Bulletin, however, the illegal remuneration is often the difference between the money paid by the Owner to the Manager/Supplier and the

[3] The Owner's referrals may be direct or indirect and may include not only ordering or purchasing goods or services, but also ''arranging for'' or ''recommending'' goods and services. *See* section 1128B(b) of the Act. For example, a hospital may generate business for a DME company, notwithstanding that orders for specific DME items must be signed by a physician who may or may not be a hospital employee.

reimbursement received from the federal health care programs. By agreeing effectively to provide services it could otherwise provide in its own right for less than the available reimbursement, the Manager/Supplier is providing the Owner with the opportunity to generate a fee and a profit. The opportunity to generate a fee is itself remuneration that may implicate the anti-kickback statute.

C. Indicia of a Suspect Contractual Joint Venture

To help identify the suspect contractual joint ventures that are the focus of this Special Advisory Bulletin, we describe below some characteristics, which, taken separately or together, potentially indicate a prohibited arrangement. This list is illustrative, not exhaustive.

New Line of Business. The Owner typically seeks to expand into a health care service that can be provided to the Owner's existing patients. As illustrated in Part A, examples include, but are not limited to, hospitals expanding into DME services, DME companies expanding into the nebulizer pharmacy business, or nephrologists expanding into the home dialysis supply business.[4]

Captive Referral Base. The newly-created business predominantly or exclusively serves the Owner's existing patient base (or patients under the control or influence of the Owner). The Owner typically does not intend to expand the business to serve new customers (*i.e.*, customers not already served in its main business) and, therefore, makes no or few *bona fide* efforts to do so.

Little or No Bona Fide Business Risk. The Owner's primary contribution to the venture is referrals; it makes little or no financial or other investment in the business, delegating the entire operation to the Manager/Supplier, while retaining profits generated from its captive referral base. Residual business risks, such as nonpayment for services, are relatively ascertainable based on historical activity.

Status of the Manager/Supplier. The Manager/Supplier is a would-be competitor of the Owner's new line of business and would normally compete for the captive referrals. It has the capacity to provide virtually identical services in its own right and bill insurers and patients for them in its own name.

Scope of Services Provided by the Manager/Supplier. The Manager/Supplier provides all, or many, of the following key services:

- Day-to-day management;
- Billing services;
- Equipment;
- Personnel and related services;
- Office space;
- Training;
- Health care items, supplies, and services.[5]

In general, the greater the scope of services provided by the Manager/Supplier, the greater the likelihood that the arrangement is a contractual joint venture.

Remuneration. The practical effect of the arrangement, viewed in its entirety, is to provide the Owner the opportunity to bill insurers and patients for business otherwise provided by the Manager/Supplier. The remuneration from the venture to the Owner (*i.e.*, the profits of the venture) takes into account the value and volume of business the Owner generates.

Exclusivity. The parties may agree to a non-compete clause, barring the Owner from providing items or services to any patients other than those coming from Owner and/or barring the Manager/Supplier from providing services in its own right to the Owner's patients.

As noted above, these factors are illustrative, not exhaustive. The presence or absence of any one of these factors is not determinative of whether a particular arrangement is suspect. As indicated, this Special Advisory Bulletin is not intended to describe the entire universe of suspect contractual joint ventures. This Bulletin focuses on arrangements where substantially all of the operations of a new line of business are contracted out to a would-be competitor. Arrangements involving the delegation of fewer than substantially all services, or delegation to a party not otherwise in a position to bill for the identical services, may also raise concerns under the anti-kickback statute, depending on the circumstances.

The Office of Inspector General (OIG) was established at the Department of Health and Human Services by Congress in 1976 to identify and eliminate fraud, abuse, and waste in the department's programs and to promote efficiency and economy in departmental operations. The OIG carries out this mission through a nationwide program of audits, investigations, and inspections.

The Fraud and Abuse Control Program, established by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), authorized the OIG to provide guidance to the health care industry to prevent fraud and abuse and to promote the highest level of ethical and lawful conduct. To further these goals, the OIG issues Special Advisory Bulletins about industry practices or arrangements that potentially implicate the fraud and abuse authorities subject to enforcement by the OIG.

Dated: March 27, 2003.

Dennis J. Duquette,

Acting Principal Deputy Inspector General.

[FR Doc. 03–10626 Filed 4–29–03; 8:45 am]

BILLING CODE 4150–01–P

[4] These examples are illustrative only. This list is not intended to suggest that other analogous ventures are not equally suspect.

[5] The Manager/Supplier may also provide marketing services, although in many instances no such services are required since the Owner generates substantially all of the venture's business from its existing patient base.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; National Institute of Diabetes and Digestive and Kidney Diseases Information Clearinghouses Customer Satisfaction Survey

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management (OMB) for review and approval.

Proposed Collection

Title: NIDDK Information Clearinghouses Customer Satisfaction Survey. *Type of Information Request:* EXTENSION. The OMB control number 0925–0480 expires July 31, 2003. *Need and Use of Information Collection:* NIDDK is conducting a survey to evaluate the efficiency and effectiveness of services provided by NIDDK's three information clearinghouses: National Diabetes Information Clearinghouse, National Digestive Diseases Information Clearinghouse, National Kidney and Urologic Diseases Information Clearinghouse. The survey responds to Executive Order 12862, ''Setting Customer Service Standards,'' which requires agencies and departments to identify and survey their ''customers to determine the kind and quality of service they want and their level of satisfaction with existing service.'' *Frequency of Response:* On occasion.

Affection Public: Individuals or households; clinics or doctor's offices.

Type of Respondents: Physicians, nurses, patients, family.

Type of respondents	Number of respondents	Frequency of response	Estimated average response time	Estimated annual burden hours
Patients/Family	3,600	1.00	0.167	600
Phys. Asst.	7,200	1.00	0.167	1,200
Physicians	1,200	1.00	0.167	200
Totals	12,000			2,000

The annual reporting burden is as follows: *Estimated Number of Respondents:* 12,000; *Estimated number of Responses per Respondent:* 1; *Estimated Average Burden Hours Per Response:* 0.167; *and Estimated Total Annual Burden Hours Requested:* 2,000. The annualized cost to respondents is estimated at $39,000. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection reports and instrument, contact Kathy Kranzfelder, Project Officer, NIDDK Information Clearinghouses, NIH, Building 31, Room 9A04, MSC2560, Bethesda, MD 20852. You may also submit comment and data by electronic mail (e-mail) at *kranzfeldk@hq.niddk.nih.gov*.

Comments Due Date: Comments regarding this information are best assured of having their full effect if received within 60 days following the date of this notice.

Dated: April 24, 2003.

Barbara Merchant,

Executive Officer, NIDDK.

[FR Doc. 03–10598 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Aggression Prevention Among High-Risk Early Adolescents

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Child Health and Human Development (NICHD), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: Aggression Prevention Among High-Risk Early Adolescents Study. *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* This study will assess the efficacy of an in-school, group-mentoring intervention designed to foster academic engagement and prevent aggressive and deviant behavior among early adolescents (approximately ages 11–12). The primary objectives of the study are to determine if participation in a weekly group-mentoring program throughout 6th grade significantly impacts adolescents' attitudes and behaviors regarding school engagement and aggression above and beyond educational materials for youth and parents. The findings will provide valuable information concerning: (1) The efficacy of in-school group-mentoring programs for improving youth attitudes, expectations, intent/motivation, and social competence; and (2) the extent to which such improvement increases academic engagement and decreases aggressive and deviant behavior among high-risk youth. *Frequency of Response:* six times over three years for 6th graders (*i.e.*, fall and spring of 6th, 7th, and 8th grades), four times over three years for 6th grade parents (*i.e.*, fall of 6th grade and spring of 6th, 7th, and 8th grades), and two times over one year for 7th and 8th graders (fall and spring of school year). *Affected Public:* For the pilot, incoming 6th graders from an inner city Baltimore middle school and their parents who agree to participate. For the main trial, two successive cohorts of incoming 6th grade students from two inner city Baltimore middle schools and their parents. Additionally, one cohort of 7th and 8th graders will be surveyed in the Fall and Spring of the first school year of the main trial. *Type of Respondents:* Early adolescents and parents. The annual reporting burden is as follows: *Estimated Number of Respondents:* 1280 early adolescents and 400 parents; *Estimated Number of Responses per Respondent:* six for early adolescents who enter study as 6th graders, two for youth who enter as 7th or 8th graders, and four for parents; *Average Burden Hours Per Response:* 1.0 for youth and 0.5 for parents; and *Estimated Total Annual Burden Hours Requested:* 2,187. The annualized cost to respondents is estimated at: $32,805 (based on $15 per hour). There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Tye of respondents	Estimated number of respondents	Estiamted number of annual responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
6th graders	800	2	1.0	1,600
7th graders	160	.67	1.0	107
8th graders	320	.67	1.0	214
Parents	400	1.33	.50	266
Total	1,680			2,187

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Bruce Simons-Morton, Chief, Prevention Research Branch, DESPR, NICHD, NIH, 6100 Executive Blvd., Room 7B13, MSC 7510, Bethesda, MD 20892–7510; (301) 493–5674; e-mail: *mortonb@mail.nih.gov.*

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: April 22, 2003.

April Burton,

Project Clearance Liaison, NICHD, National Institutes of Health.

[FR Doc. 03–10599 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Cancer Control in Multiethnic Working Class Populations.

Date: June 1–3, 2003.

Time: 6 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: The Inn at Longwood Medical, 342 Longwood Ave., Boston, MA 02115.

Contact Person: Peter J. Wirth, PhD, Scientific Review Administrator, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8131, Bethesda, MD 20892–8328, 301–496–7565, *pw2q@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 22, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10592 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Loan Repayment Program.

Date: May 15, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852, (Virtual Meeting).

Contact Person: Gerald G. Lovinger, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8101, Rockville, MD 20892–7405, 301/496–7987.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 22, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10593 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C. as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Somatic Cell Therapy Processing Facilities.

Date: May 20, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: Robert B. Moore, PhD, Scientific Review Administrator, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7178, MSC 7924, Bethesda, MD 20892. 301/435–0725.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93,838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 22, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10589 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council on Alcohol Abuse and Alcoholism.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Alcohol Abuse and Alcoholism.

Date: June 4–5, 2003.

Closed: June 4, 2003, 5:30 p.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Bethesda Marriott, 5151 Pooks Hill Rd., Bethesda, MD 20814.

Open: June 4, 2003, 8:30 a.m. to 3:30 p.m.

Agenda: Program documents.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room E1–E2, Bethesda, MD 20892.

Contact Person: Kenneth R. Warren, PhD, Director, Office of Scientific Affairs, National Institute on Alcohol Abuse, and Alcoholism, National Institutes of Health, Willco Building, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–4375, *kwarren@niaaa.nih.gov.*

Information is also available on the Institute's/Center's home page: *silk.nih.gov/silk/niaaa1/about/roster.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: April 22, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10590 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Alcohol Abuse and Alcoholism, Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the Board of Scientific Counselors, NIAAA.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Alcohol Abuse and Alcoholism, including consideration of personnel qualifications and performance, and the competence and individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIAAA.

Date: June 3–4, 2003.

Open: June 3, 2003, 7:45 a.m. to 8 a.m.

Agenda: To Discuss Administrative Details.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892,

Closed: June 3, 2003, 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate the Laboratory of Clinical Studies and part of the Section of Fluorescence Studies.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Closed: June 4, 2003, 8 a.m. to 2 p.m.

Agenda: To review and evaluate the Laboratory of Clinical Studies and part of the Section on Fluorescence Studies.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Contact Person: Brenda L. Sandler, Chief, Administrative Management Branch, Div of Intramural Chief and Biological Research, Building 31, Room 1B58, Bethesda, MD

20892–2088, 301–496–9843, *sandlerb@niaaa.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: April 22, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10591 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Institutes of Neurological Disorders and Stroke.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Neurological Disorders and Stroke, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke.

Date: May 11–13, 2003.

Closed: May 11, 2003, 7 p.m. to 9 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: May 12, 2003, 8:30 a.m. to 11:30 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Conference Room A, Rockville, MD 20852.

Open: May 12, 2003, 11:30 a.m. to 12:20 p.m.

Agenda: To discuss program planning and program accomplishments.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Conference Room A, Rockville, MD 20852.

Closed: May 12, 2003, 12:20 p.m. to 1:50 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigations.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Conference Room A, Rockville, MD 20852.

Open: May 12, 2003, 2 p.m. to 4:05 p.m.

Agenda: To discuss program planning and program accomplishments.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Conference Room A, Rockville, MD 20852.

Closed: May 12, 2003, 4:05 p.m. to 4:20 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Conference Room A, Rockville, MD 20852.

Open: May 12, 2003, 4:20 p.m. to 5 p.m.

Agenda: To discuss program planning and program accomplishments.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Conference Room A, Rockville, MD 20852.

Closed: May 12, 2003, 5 p.m. to 6:20 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Conference Room A, Rockville, MD 20852.

Closed: May 12, 2003, 7:30 p.m. to 10 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: May 13, 2003, 8:30 a.m. to Adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Story C. Clandis, PHd, Director, Division of Intramural Research, NINDS, National Institutes of Health, Building 36, Room 5A05, Bethesda, MD 20892, 301–435–2232.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: April 22, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10594 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets and commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Meeting on Glial Function.

Date: April 24, 2003.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Andrea Sawczuk, DDS, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–0660.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.584, Biological Basis Research in the Neurosciences, National Institutes of Health HHS)

Dated: April 22, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10595 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, ''Develop and Maintain Substance Abuse Prevention Methodological Software''.

Date: May 1, 2003.

Time: 9:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institute of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1439.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel ''Synthesis and Distribution of Drugs of Abuse and Related Compounds.''

Date: May 21, 2003.

Time: 9:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Marriott, 5151 Pooks Hill, Road Bethesda, MD 20814.

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institute of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1438.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: April 22, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10596 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Contract Review: Flexible Decision Support Systems.

Date: May 16, 2003.

Time: 9 a.m. to 1 p.m.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Richard E. Weise, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6140, MSC9606, Bethesda, MD 20892–9606, 301–443–1225, *rweise@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: April 21, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10597 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice if hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Review of Research Project Grants.

Date: May 27, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Aftab A. Ansari, PhD, Scientific Review Administrator, National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Plaza, Bethesda, MD 20892, (301) 594–4952.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: April 24, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10664 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C.,

as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Review of Contract RFP 03–002.

Date: May 6, 2003.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: John R. Lymangrover, PhD, Scientific Review Administrator, National Institutes of Health, NIAMS, 6701 Democracy Plaza, Bethesda, MD 20892, 301–594–4952.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculosketetal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: April 24, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10665 Filed 4–29–03; 8:45 am]

BILLING CODE 4149–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Loan Repayment Applications.

Date: May 23, 2003.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Anne Krey, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, National Institutes of Health, 6100 Executive Blvd., Rm. 5E03, Bethesda, MD 20892, 301–435–6908.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: April 23, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10668 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Loan Repayment.

Date: May 14, 2003.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Marita R. Hopmann, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Building, Room 5E01, Bethesda, MD 20892, (301) 435–6911, *hopmannm@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: April 23, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10669 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Concept Clearance—''A Longitudinal Study of the Estrogen and Progesterone Effects on Biomarkers of Oxidative Stress and Antioxidant Status During the Menstrual Cycle.''

Date: May 23, 2003.

Time: 12 p.m. to 1:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6100 Executive Blvd., Rockville, MD 20852. (Telephone conference call.)

Contact Person: Hameed Khan, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E01, Bethesda, MD 20892. (301) 435–6902. *khanh@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93,209, Contraception and

Infertility Loan Repayment Program, National Institutes of Health, HHS.)

Dated: April 23, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10670 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of RFA–ES–03–003.

Date: June 25–27, 2003.

Time: 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Linda K. Bass, PhD, Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709. (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: April 23, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10671 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel, Internet Access to Digital Libraries (IADL).

Date: June 9, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, 4300 Military Road, Washington, DC 20015.

Contact Person: Merlyn M Rodrigues, MD, PhD, Medical Officer/SRA, National Library of Medicine, Extramural Programs, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20894.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS.)

Dated: April 22, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10588 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel Publications.

Date: May 30, 2003.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Merlyn M. Rodrigues, MD, PhD, Medical Officer/SRA, National Library of Medicine, Extramural Programs, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20894.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: April 23, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10667 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel HTLV–1 vaccine.

Date: April 28, 2003.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: %Mary Clare Walker, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel Signaling.

Date: May 5, 2003.

Time: 10:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Marcia Litwack, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6206, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 23, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–10666 Filed 4–29–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Delaware & Lehigh National Heritage Corridor Commission Meeting

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware & Lehigh National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

DATES: Friday, May 9, 2003; time, 2 p.m. to 4 p.m.

ADDRESSES: James A. Michener Art Museum, 138 South Pine Street, Doylestown PA 18901.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

FOR FURTHER INFORMATION CONTACT: C. Allen Sachse, Executive Director, Delaware & Lehigh National Heritage Corridor Commission, 1 South Third Street, 8th Floor, Easton PA 18042. (610) 923–3548).

SUPPLEMENTARY INFORMATION: The Delaware & Lehigh National Heritage Corridor Commission was established by Pub. L. 100–692, November 18, 1988 and extended through Pub. L. 105–355, November 13, 1998.

Dated: April 23, 2003.

C. Allen Sachse,

Executive Director, Delaware & Lehigh National Heritage Corridor Commission.

[FR Doc. 03–10637 Filed 4–29–03; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Draft Cactus Ferruginous Pygmy-Owl Recovery Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; reopening of public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) announce the reopening of the comment period for the Draft Recovery Plan for the Cactus Ferruginous Pygmy-owl (*Glaucidium brasilianum cactorum*) (Draft Plan). The species is currently known to occur on Federal, state, tribal, and private lands in Pima and Pinal Counties in southern Arizona. We solicit review and comment from the public on this Draft Plan. Since the prior comment period, additional information from the administrative record concerning the locations of pygmy-owls has become available to the public, in part as a result of a court ruling in *National Association of Home Builders* v. *Norton*, 309 F.3d 26 (D.C. Cir. 2002). Thus, we are reopening the comment period on the Draft Plan 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 reopening of the comment period, and will be fully considered in the Final Plan.

DATES: Submit comments on or before June 30, 2003.

ADDRESSES: Written comments and materials regarding the plan should be addressed to the Field Supervisor, Arizona Ecological Services Field Office, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, Arizona, 85021–4951 or faxed to 602/242–2513, or emailed to *cfpo_recovery@fws.gov*. The additional materials from the administrative record, as well as comments and materials received, are available for public inspection, by appointment, during normal business hours at the above address. You may also write the Field Supervisor at the address above, or call 602/242–0210 to have a copy mailed to you or made available for you to pick up at the address above. Persons wishing to review the Draft Recovery Plan may also obtain a copy by accessing the Service's Arizona Ecological Service Field Office internet web page at *Arizonaes.fws.gov*.

FOR FURTHER INFORMATION CONTACT: Scott Richardson, Arizona Ecological Services Tucson Suboffice, U.S. Fish and Wildlife Service, 110 South Church Avenue, Suite 3450, Tucson, Arizona, 85701 (520/670–4643).

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant species to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of our endangered species program. To help guide the recovery effort, we are working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed. The current comment period for the Draft Plan closed on April 9, 2003.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and

comment be provided during recovery plan development. We will consider all information presented during the public comment period prior to approval of each new or revised recovery plan. We, along with other Federal agencies, will take these comments into account in the course of implementing approved recovery plans.

The Draft Plan describes the status, current management, recovery objectives and criteria, and actions needed to reclassify the pygmy-owl from endangered to threatened. The Draft Plan was developed in coordination with the Service and by an appointed Recovery Team which includes a group of scientists with expertise in the ecology of the pygmy-owl and other raptors (Technical Group) together with a team of stakeholders (the Implementation Group), which includes members of affected parties (*i.e.*, tribes, state agencies, counties, towns, developers, environmental groups, ranchers, mining, and private property rights groups). The Draft Plan has undergone peer review by scientists, conservation biologists, range experts, and others experienced in reviewing recovery plans. This Draft Plan incorporates their comments where applicable. Additional peer review will be conducted during the current public comment period.

The pygmy-owl occurs in a variety of scrub and woodland communities, including riverbottom woodlands, woody thickets, Sonoran desertscrub, and semidesert grasslands. The pygmy-owl occurs in areas with fairly dense woody thickets or woodlands with trees and/or cacti large enough to support nesting cavities. They are found below 1,200 meters (4,000 feet). We determined in 1997 that the distinct population segment in Arizona of the pygmy-owl was endangered (62 FR 10730) primarily because of habitat destruction. Factors identified included (1) present or threatened destruction of their habitat and range, (2) inadequate existing regulatory mechanisms, and (3) other natural or manmade factors affecting their continued existence. The Draft Plan contains actions to address these factors.

Public Comments Solicited

We solicit written comments on the Draft Plan. In particular, we are soliciting specific comments on:

1. Any information on the numbers and distribution of the pygmy-owl not considered in the Draft Plan and their relation to proposed recovery actions;

2. Whether we have looked at the right biological factors and other relevant data related to the quantity and quality of available pygmy-owl habitat and what habitat is necessary to the recovery of the species;

3. Land use practices and current or planned activities within Recovery Areas and their possible impacts on proposed recovery actions.

All comments received by us on or before the date specified in the **DATES** section above will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: April 16, 2003.

H. Dale Hall,

Regional Director, Region 2.

[FR Doc. 03–10635 Filed 4–29–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–029–03–1310–DT CBMP]

Notice of Availability of the Record of Decision for the Montana Statewide Oil and Gas Final Environmental Impact Statement and Plan Amendments of the Powder River and Billings Resource Management Plans (RMPs); Montana

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the National Environmental Policy Act, the Bureau of Land Management (BLM) announces the availability of the Record of Decision for the Montana Statewide Final Environmental Impact Statement (FEIS) and Resource Management Plan (RMP) Amendment of the Powder River and Billings RMPs. The BLM planning area included oil and gas estate administered by BLM in the Powder River and Billings RMP areas. The FEIS and Plan Amendments were available for protest from January 17, 2003, through February 18, 2003. All protests and comments received were considered during the preparation of the ROD.

ADDRESSES: Copies of the ROD have been sent to affected Federal, State, and local government agencies and to interested parties. The document will be available electronically on the following Web site: *http://www.mt.blm.gov/mcfo/.* Copies of the ROD are available for public inspection at the following BLM office locations: Office of External Affairs, Main Interior Building, Room 6214, 18th and C Streets, NW., Washington, DC 20240; External Affairs Office; Montana State Office, 5001 Southgate Drive, Billings, MT 59101; Miles City Field Office, 111 Garryowen Road, Miles City, MT 59301.

FOR FURTHER INFORMATION CONTACT: Mary Bloom, Coal Bed Methane Program Manager, Bureau of Land Management, 111 Garryowen Road, Miles City, MT 59301, (406) 233–3649.

SUPPLEMENTARY INFORMATION: The Powder River RMP area encompasses the southeastern portion of Montana consisting of Treasure and Powder River counties, and portions of Rosebud, Big Horn, Carter, and Custer counties. There are approximately 2,522,950 BLM-administered oil and gas acres in the Powder River RMP area. The Billings RMP area encompasses the south-central portion of Montana consisting of Wheatland, Golden Valley, Musselshell, Sweet Grass, Stillwater, Yellowstone, and Carbon counties, and the remaining portion of Big Horn County. There are approximately 662,066 BLM-administered oil and gas acres in the Billings RMP area. The BLM-administered oil and gas acreage in Blaine, Park, and Gallatin counties is not part of this BLM planning effort.

The State of Montana was a co-lead in preparation of the EIS. Four Designated Cooperating Agencies helped the BLM and the State prepare the EIS: the Bureau of Indian Affairs, the United States Department of Energy, the Crow Tribe, and the United States Environmental Protection Agency. The Northern Cheyenne Tribe declined to become a cooperating agency, but was invited by the BLM to participate in all Cooperating Agency activities.

Dated: April 11, 2003.

Martin C. Ott,

State Director.

[FR Doc. 03–10719 Filed 4–29–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–040–06–1610–DU]

Notice of Availability of Record of Decision for Environmental Impact Statement and Resource Management Plan Amendments

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of Record of Decision (ROD) for the Wyoming Environmental Impact Statement (EIS) for the Powder River Basin Oil and Gas

Project and Plan Amendments to the Buffalo Resource Management Plan (RMP) (1985), Platte River RMP (1985) and Thunder Basin National Land and Resource Management Plan (LRMP) (Forest Service 2002); Johnson, Sheridan, Campbell, and Converse Counties, Wyoming.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 and the Federal Land Policy and Management Act of 1976, the Bureau of Land Management (BLM) announces the availability of the ROD for the Wyoming EIS for the Powder River Basin Oil and Gas Project and Plan Amendments to the Buffalo RMP (1985), Platte River RMP (1985) and Thunder Basin National Land and Resource Management Plan (LRMP) (Forest Service 2002). The Forest Service and the State of Wyoming (Wyoming Department of Environmental Quality) were cooperating agencies in preparing the EIS.

ADDRESSES: The document will be available electronically on the following Web site: *http://www.prb-eis.org.* Copies of the ROD are available for public inspection at the following BLM office locations:

Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Bureau of Land Management, Buffalo Field Office, 1425 Fort Street, Buffalo, Wyoming 82834.

Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, Wyoming 82604–2968.

FOR FURTHER INFORMATION: Contact Mr. Paul Beels, Project Manager, 1425 Fort Street, Buffalo, WY 82834, or *paul_beels@blm.gov.* Mr. Beels may also be reached at 307–684–1168.

SUPPLEMENTARY INFORMATION: A copy of the ROD has been sent to affected Federal, State, and local government agencies and to interested parties. The project area includes almost 8,000,000 acres in northeastern Wyoming, encompassing all of Johnson, Campbell, and Sheridan Counties (except the Bighorn National Forest System lands) and the northern portion of Converse County. The public lands and Federal mineral resources analyzed include all of those administered by the BLM Buffalo Field Office and a small portion that is administered by the BLM Casper Field Office. The mineral resources analyzed also include the Federal oil and gas underlying the National Forest System lands and surface resources in the Thunder Basin National Grassland, administered by the Forest Service.

Dated: April 15, 2003.

Alan L. Kesterke,

Associate State Director.

[FR Doc. 03–10718 Filed 4–29–03; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–060–01–1020–PG]

Notice of Public Meeting, Central Montana Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management Central Montana Resource Advisory Council (RAC) will meet as indicated below.

DATES: The meeting will be held June 17–18, 2003, at the Stage Stop Inn, in Choteau, Montana. On June 17th, the RAC will tour the Rocky Mountain Front. The June 18th meeting will begin at 8 a.m. with a 30-minute public comment period and will adjourn around 5 p.m.

SUPPLEMENTARY INFORMATION: This 15-member advisory council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management. During these meetings the council plans to discuss:

Potential Energy Development on the Rocky Mountain Front
The Upper Missouri River Breaks National Monument Resource Management Plan
The Lewis and Clark Bicentennial
BLM Budget Matters
The National RAC Meeting
The RAC's Missouri River Visitor Use Sub-Group
Vacant Outfitter Permits
Field Manager Updates
Overview of the Fire Program, and Plans for the Next RAC Meeting

All meetings are open to the public. The public may present written comments to the council. Each formal council meeting will also have time allocated for public comments (as detailed above). Depending on the number of persons wishing to comment and time available, the time for individual comments may be limited.

FOR FURTHER INFORMATION CONTACT: David L. Mari, Lewistown Field Manager, Bureau of Land Management, PO Box 1160, Airport Road, Lewistown, MT 59457, 406/538–7461.

Dated: April 23, 2003.

David L. Mari,

Lewistown Field Manager.

[FR Doc. 03–10639 Filed 4–29–03; 8:45 am]

BILLING CODE 4310–$$–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–450]

In the Matter of Certain Integrated Circuits, Processes for Making Same, and Products Containing Same; Notice of Rescission of Limited Exclusion Order and Vacatur of Administrative Law Judge Order No. 5

AGENCY: International Trade Commission.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has rescinded the limited exclusion order issued on October 8, 2002, at the conclusion of the above-captioned investigation, and vacated Administrative Law Judge (''ALJ'') Order No. 5.

FOR FURTHER INFORMATI0N CONTACT: David I. Wilson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–708–2310. Copies of the Commission Order and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: On March 6, 2001, the Commission voted to instituted this investigation, which concerned allegations of unfair acts in violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the importation and sale of certain integrated circuits, processes for making same, and products containing same. 66 FR 13567 (Mar. 6, 2001). On October 8,

2002, the Commission found a violation of section 337 in the unlawful importation and sale by respondents Silicon Integrated Systems Corp. of Taiwan and Silicon Integrated Systems Corp. of the United States (collectively ''respondents'') of certain integrated circuits, and certain products containing same, made by a process covered by claim 13 of U.S. Patent No. 6,117,345, owned by complainants United Microelectronics Corp., UMC Group (USA), and United Foundry Service, Inc. (collectively ''complainants'').

On March 13, 2003, complainants and respondents filed a joint petition to rescind the limited exclusion order under Commission rule 210.76(a)(1), 19 CFR 210.76(a)(1), on the basis of a settlement agreement they had reached. Complainants and respondents asserted that their settlement agreement constituted ''changed conditions of fact or law'' sufficient to justify rescission of the order under Commission rule 210.76(a)(1). Complainants and respondents also sought in their joint petition to have the Commission vacate Administrative Law Judge (''ALJ'') Order No. 5, which restricted the patent prosecution activities of William H. Wright of Hogan & Hartson, counsel for complainants, and other patent practioners at Hogan & Hartson, who had subscribed to the administrative protective order. ALJ Order No. 5 had been entered at the request of respondents.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and § 210.76(a)(1) of the Commission's rules of practice and procedure, 19 CFR 210.76(a)(1).

Issued: April 23, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–10615 Filed 4–29–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: extension of a currently approved collection; survey of practitioners to assess the impact of transnational crime.

The Department of Justice (DOJ), Office of Justice Programs (OJP) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** volume 67, number 213, page 67210 on November 4, 2002, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until May 30, 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 the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, 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:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Survey of Practitioners to Assess the Impact of Transnational Crime.

(3) *Agency form number, if any, and the applicable component of the department sponsoring the collection:* OJP Form Number, none. National Institute of Justice, Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked or require to respond, as well as a brief abstract:* Affected public includes law enforcement administrators or other persons responsible for investigatory operations within sampled jurisdictions. The survey will gather information about the impact of terrorism and other transnational crimes on local jurisdictions across the country, including resource allocation, collaboration with other agencies, extent of activity, and awareness of activity. The data will be used to advise the National Institute of Justice, Federal law enforcement agencies, and State and local law enforcement agencies on how State and local jurisdictions are impacted by terrorism and transnational crime.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 250 respondents will complete the survey which will take 30 minutes to complete.

(6) *An estimate of the total public burden (in hours) associated with this collection:* An estimated 125 hours of public burden is associated with this collection.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: April 25, 2003.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 03–10684 Filed 4–29–03; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cable Television Laboratories, Inc.

Notice is hereby given that, on March 5, 2003, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Cable Television Laboratories, Inc. (''CableLabs'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications

were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Cablevision Systems Corporation, Bethpage, NY; Advance/Newhouse Communications, Syracuse, NY; Bresnan Communications, White Plains, NY; and United Pan-Europe Communications (UPC), Amsterdam, the Netherlands have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CableLabs intends to file additional written notifications disclosing all changes in membership.

On August 8, 1988, CableLabs filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 7, 1988 (53 FR 34593).

The last notification was filed with the Department on April 6, 2001. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 4, 2001 (66 FR 30006).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–10682 Filed 4–29–03; 8:45 am]

BILLING CODE 4410–11–M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Meeting Notice

AGENCY: National Commission on Libraries and Information Science, (NCLIS).

ACTION: Notice of meetings.

SUMMARY: The U.S. National Commission on Libraries and Information Science is holding an open business meeting to discuss Commission programs and administrative matters. Topics will include reports on current activities, including the Commission's project, ''Trust and Terror,'' dealing with the role of libraries in managing crisis information, and its project with UNESCO and the National Forum on Information Literacy to develop an international conference on information literacy. Also, Commissioners will be briefed on the continuing Library Statistics Program coordinated by the NCLIS staff and will discuss plans for orientation of new Commissioners expected to be named by the White House in the near future.

Date and Time: NCLIS Business Meeting—May 16, 2003, 9 a.m. until 1 p.m.

Address: The South Valleys Branch Library, 15650A Wedge Parkway, Reno, NV 89511.

Status: Open meeting.

SUPPLEMENTARY INFORMATION: The business meeting is open to the public, subject to space availability. To make special arrangements for physically challenged persons, contact Madeleine McCain, Director of Operations, 1110 Vermont Avenue, NW., Suite 820, Washington, DC 20005, e-mail *mmccain@nclis.gov,* fax 202–606–9203 or telephone 202–606–9200.

Summary: The U.S. National Commission on Libraries and Information Science is also holding a closed meeting to review the nominations for the National Award for Library Service on the afternoon of May 15. Closing this meeting is in accordance with the exemption provided under title 45 CFR 1703.202(a)(9).

Date and Time: NCLIS closed meeting—May 15, 2003, 2 p.m.—5 p.m.

Address: Reno, NV.

Status: Closed meeting.

FOR FURTHER INFORMATION CONTACT: Madeleine McCain, Director of Operations, U.S. National Commission on Libraries and Information Science, 1110 Vermont Avenue, NW., Suite 820, Washington, DC 20005, e-mail *mmccain@nclis.gov,* fax 202–606–9203 or telephone 202–606–9200.

Dated: April 23, 2003.

Robert S. Willard,

NCLIS Executive Director.

[FR Doc. 03–10568 Filed 4–29–03; 8:45 am]

BILLING CODE 7527–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Proposed Collection; Comments Request

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection of: National Endowment for the Arts Panelist Profile Form. A copy of the current information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the address section below on or before July 2, 2003. The NEA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond.

ADDRESSES: Kathy Plowitz-Worden, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Room 516, Washington, DC 20506–0001, telephone (202) 682–5421 (this is not a toll-free number), fax (202) 682–5049.

Dated: April 24, 2003.

Murray Welsh,

Director, Administrative Services, National Endowment for the Arts.

[FR Doc. 03–10646 Filed 4–29–03; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Federal Advisory Committee on International Exhibitions

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Federal Advisory Committee on International Exhibitions will be held by teleconference from 2 p.m.–3 p.m. on Friday, May 16, 2003 in Room 709 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of May 2, 2002, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Panel Coordinator, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: April 24, 2003.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 03–10645 Filed 4–29–03; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–04532]

Consideration of Amendment Request to Decommission Site at the U.S. Department of the Army Facility in Ft. Detrick, MD and Opportunity to Request a Hearing

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering an amendment request to terminate the U.S. Department of the Army's (Army) Byproduct Material License No. 19–01151–02, authorizing it to release its facilities in Fort Detrick, Maryland, for unrestricted use. The license authorizes the Army to store and dispose of radioactive waste from the tenants of Fort Detrick, Frederick, Maryland. The license was originally issued on April 21, 1959, and the current license, Amendment No. 26, expires on December 31, 2007. The Army has submitted a decommissioning plan covering the facilities to be released.

II. Opportunity for a Hearing

The NRC hereby provides notice that this is a proceeding on an application for an amendment of a license falling within the scope of subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings'' of NRC's rules and practice for domestic licensing proceedings in 10 CFR part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within 30 days of the publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the secretary, either:

(1) By delivery to the Rulemaking and Adjudications Staff of the Office of the Secretary of the Commission at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemaking and Adjudications Staff. Because of continuing disruptions in the delivery of mail to United States Government offices, it is requested that requests for hearing also be transmitted to the Secretary of the Commission either by means of facsimile transmission to (301) 415–1101, or by email to *hearingdocket@nrc.gov.*

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

(1) The applicant, the U.S. Department of the Army, Headquarters, U.S. Army Garrison, 810 Schreider Street, Fort Detrick, Maryland 21702; and,

(2) The NRC staff, by delivery to the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Because of continuing disruptions in the delivery of mail to United States Government offices, it is requested that requests for hearing be also transmitted to the Office of the General Counsel, either by means of facsimile transmission to (301) 415–3725, or by email to *OGCMailCenter@nrc.gov.*

In addition to meeting other applicable requirements of 10 CFR part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

III. Further Information

The application for the license amendment and related documents are available for inspection at NRC's Public Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* These documents are also available for inspection and copying for a fee at the Region I Office, 475 Allendale Road, King of Prussia, PA 19406, and include:

Department of the Army Application for Termination of License No. 19–01151–02 dated October 21, 2002 (ADAM's accession No. ML023030361);

U.S. NRC request for additional information regarding Department of the Army Application for Termination of License No. 19–01151–02 dated November 15, 2002 (ADAM's accession No. ML023220722);

Letter dated December 12, 2002, providing additional information including revised decommissioning plan (ADAM's accession No. ML023500461);

Letter dated February 7, 2003, providing additional information (ADAM's accession No. ML030440512);

Letter dated March 12, 2003, including the Landfill Sludge Disposal Radiological Assessment (ADAM's accession No. ML030840097).

Any questions with respect to this action, should be referred to John R. McGrath, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406; telephone (610) 337–5069 or e-mail *jrm@nrc.gov.*

Dated in King of Prussia, Pennsylvania, this 22nd day of April, 2003.

For the Nuclear Regulatory Commission.

John D. Kinneman,

Chief, Nuclear Materials Safety Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. 03–10609 Filed 4–29–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

National Materials Program Pilot Project Working Groups; Meetings

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of formation of working groups and meetings.

SUMMARY: The Nuclear Regulatory Commission (NRC) has formed working groups to examine five pilot projects under the National Materials Program. The working groups will be composed

of representatives from the Organization of Agreement States (OAS), the Conference of Radiation Control Program Directors, Inc. (CRCPD), and NRC staff. The direction of the National Materials Program will be guided by the lessons learned and experience gained from the pilot projects.

Efforts to establish a National Materials Program were initiated with NRC Commission approval in 1999. Objectives of this program include: Individual program activities to protect public health and safety; sharing of Federal and State resources to maintain necessary supporting regulations, guidance and other program elements needed for the nationwide materials program; accounting for individual agency needs and abilities; promoting consensus on regulatory priorities; promoting consistent exchange of information; harmonizing regulatory approaches; and recognizing State and Federal needs for flexibility.

DATES: To help ensure coordination and sharing of information with the OAS, the CRCPD, and the public, the working groups will place information regarding the pilot projects and working group meetings at the Office of State and Tribal Programs' Web site at *http://www.hsrd.ornl.gov/nrc/home.html.*

FOR FURTHER INFORMATION CONTACT: Shawn Rochelle Smith, U.S. Nuclear Regulatory Commission, Office of State and Tribal Programs, Mail Stop: O3-C10, Washington, DC 20555. Telephone: 301–415–2620, E-mail: *srs3@nrc.gov.*

SUPPLEMENTARY INFORMATION: The goals of the five pilot projects are: (1) *Pilot 1*—Involvement of Agreement States in the establishment of priorities for development of materials policy, rulemaking, and guidance products in the materials and waste arenas; Chair, Shawn Rochelle Smith, NRC/Office of State and Tribal Programs; (2) *Pilot 2*—Assumption by CRCPD of lead responsibility for the administration of a national radiographer certification program, including the development of recommendations for follow-up evaluations of program status, and testing and program maintenance activities; Chair, Jan Endahl, Texas Department of Health; (3) *Pilot 3*—To develop and test a structured process for evaluating cumulative licensee data and performance, identify gaps in NRC and Agreement State processes, and develop strategies and tools to make the programs more scrutable, predictable, and transparent; Chair, Michael Markley, NRC/Office of Nuclear Material Safety and Safeguards; (4) *Pilot 4*—Assumption by an Agreement State of responsibility for development of licensing and inspection guidance for a new use of material, or a new modality, not previously reviewed and approved; Chair, Kathy Allen, Illinois Department of Nuclear Safety; and (5) *Pilot 5*—Implementation of specific Phase II recommendations, including ongoing work of the existing working group to draft and pilot test revisions to Inspection Manual Chapter 2800; Chair, Thomas Young, NRC/Office of Nuclear Material Safety and Safeguards.

Dated in Rockville, Maryland, this 23rd day of April, 2003.

For the U.S. Nuclear Regulatory Commission.

Josephine M. Piccone,

Deputy Director, Office of State and Tribal Programs.

[FR Doc. 03–10610 Filed 4–29–03; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–26027; 812–12861]

The Commerce Funds and Commerce Investment Advisors, Inc.; Notice of Application

April 24, 2003.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 12(d)(1)(A) and (B) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY: The order would permit certain registered open-end management investment companies to acquire shares of other registered open-end management investment companies both within and outside the same group of investment companies.

Applicants: The Commerce Funds (the ''Trust'') and Commerce Investment Advisors, Inc. (the ''Adviser'').

DATES: The application was filed on July 23, 2002, and amended on February 21, 2003. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 19, 2003, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, 1000 Walnut Street, Kansas City, MO 64106.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 942–0581, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102, (202) 942–8090.

Applicants' Representations

1. The Trust is an open-end management investment company registered under the Act that is comprised of eleven investment portfolios (each a ''Fund''), each of which pursues a distinct set of investment objectives and policies. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as investment adviser to the Trust. The Adviser is a wholly-owned subsidiary of Commerce Bank, N.A. and an indirect subsidiary of Commerce Bancshares, Inc., a registered multi-bank holding company.

2. Goldman, Sachs & Co. (''Goldman Sachs'') is a broker-dealer registered under the Securities Exchange Act of 1934 and serves as the principal underwriter/distributor of the Trust. Goldman Sachs is a business unit of The Goldman Sachs Group, Inc. (''GS Group''). Goldman Sachs Asset Management (''GSAM'') serves as administrator to the Trust. As administrator, GSAM supplies the Trust with administrative officers who are responsible for performing administrative functions on behalf of the Trust.[1]

3. Applicants request relief to permit: (a) One or more series of the Trust and

[1] The Trust and Goldman Sachs have received an order to permit principal transactions effected in the ordinary course of business between the Trust and Goldman Sachs. *See Benchmark Funds,* et al., Investment Company Act Rel. Nos. 22882 (Nov. 12, 1997) (notice) and 22929 (Dec. 9, 1997) (order) (the ''Benchmark Order'').

any other registered open-end investment company or series thereof that is part of the same group of investment companies as the Trust (each a ''Fund of Funds'') to acquire shares of registered open-end management investment companies that are not part of the same group of investment companies as the Fund of Funds (the ''Non-Affiliated Underlying Funds'') and the Non-Affiliated Underlying Funds to sell such shares to the Fund of Funds; and (b) the Fund of Funds to acquire shares of certain other series of the Trust and any other registered open-end investment company or series thereof that is part of the same group of investment companies as the Trust (the ''Affiliated Underlying Funds'') (together with the Non-Affiliated Underlying Funds, the ''Underlying Funds'') and the Affiliated Underlying Funds to sell such shares to the Fund of Funds.[2] The requested order would apply to purchases made by the Fund of Funds only where the Fund of Funds could not rely on the provisions of section 12(d)(1)(F) of the Act. A Fund of Funds also may make direct investments in stocks, bonds, and any other securities which are consistent with its investment objective.

4. Applicants state that each Fund of Funds will enable investors to create either a comprehensive asset allocation program or achieve diversification in a specific segment of the market with just one investment. Applicants assert that a Fund of Funds will provide a simple, convenient, low cost investment program for investors who are able to identify their long-term investment goals but who may not be comfortable deciding how to invest their assets to achieve those goals.

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company from selling its shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants seek an exemption under section 12(d)(1)(J) to permit the Fund of Funds to acquire shares of the Underlying Funds and the Underlying Funds to sell their shares to the Fund of Funds beyond the limits set forth in sections 12(d)(1)(A) and (B).

3. Applicants state that the proposed arrangement will adequately address the policy concerns underlying sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants state that the proposed arrangement will not result in undue influence by a Fund of Funds or its affiliates over Underlying Funds. To limit the influence that a Fund of Funds may have over a Non-Affiliated Underlying Fund, applicants propose a condition prohibiting the Adviser, the Fund of Funds, and certain affiliates (individually or in the aggregate) from controlling a Non-Affiliated Underlying Fund within the meaning of section 2(a)(9) of the Act. To limit further the potential for undue influence over the Non-Affiliated Underlying Funds, applicants propose conditions 2 through 7, stated below, to preclude a Fund of Funds and its affiliated entities from taking advantage of a Non-Affiliated Underlying Fund with respect to transactions between the entities and to ensure the transactions will be on an arm's length basis.[3]

5. As an additional assurance that a Non-Affiliated Underlying Fund understands the implications of an investment by a Fund of Funds under the requested order, the Fund of Funds and Non-Affiliated Underlying Fund will execute an agreement (prior to an investment in the shares of the Non-Affiliated Underlying Fund in excess of the limits of section 12(d)(1)(A)(i) of the Act) stating that the board of directors or trustees of the Non-Affiliated Underlying Fund and the adviser to the Non-Affiliated Underlying Fund understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. Applicants note that a Non-Affiliated Underlying Fund may choose to reject an investment from the Fund of Funds.

6. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. Applicants state that the board of trustees of the Fund of Funds (the ''Board''), including a majority of the trustees who are not ''interested persons'' as such term is defined in section 2(a)(19) of the Act (''Disinterested Trustees''), will find that the investment advisory fees charged under any investment advisory agreements are based on services provided that will be in addition to, rather than duplicative of, services provided under the investment advisory agreement of any Underlying Fund in which a Fund of Funds may invest. In addition, the Adviser will waive fees otherwise payable to the Adviser by a Fund of Funds in an amount at least equal to any compensation received by the Adviser, or an affiliated person of the Adviser, from a Non-Affiliated Underlying Fund in connection with the investment by the Fund of Funds in the Non-Affiliated Underlying Fund. Applicants also state that the aggregate sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in rule 2830 of the Conduct Rules of the National Association of Securities Dealers (''NASD Conduct Rules'').

7. Applicants state that the proposed arrangement will not create an overly complex fund structure. Applicants note that an Underlying Fund will be prohibited from acquiring securities of any investment company in excess of the limits contained in section 12(d)(1)(A), except to the extent that such Underlying Fund (a) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to (i) acquire securities of one or more

[2] All existing entities that currently intend to rely on the requested order are named as applicants. Any other investment company that relies on the order in the future will comply with the terms and conditions of the application.

[3] Applicants assert that Goldman Sachs has no control or influence over the investment decisions of the Trust (including the Fund of Funds), and therefore cannot use the Fund of Funds structure to exercise an undue influence over a Non-Affiliated Underlying Fund in any way. Therefore, conditions 4, 6, and 7 would not apply to a GS Group entity.

affiliated investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions. In addition, applicants represent that a Fund of Funds' prospectus contains and will contain concise, ''plain English'' disclosure designed to inform investors of the unique characteristics of the Fund of Funds structure, including, but not limited to, its expense structure and the additional expenses of investing in the Underlying Funds.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person and any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that the Fund of Funds and the Affiliated Underlying Funds may be deemed to be under common control by virtue of having the same Adviser. Applicants also state that a Fund of Funds and an Underlying Fund might become affiliated persons if the Fund of Funds acquires more than 5% of the Underlying Fund's outstanding voting securities. In light of this possible affiliation, section 17(a) could prevent an Underlying Fund from selling shares to and redeeming shares from the Fund of Funds.

3. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transactions from any provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants submit that the proposed arrangement satisfies the standards for relief under sections 17(b) and 6(c) of the Act. Applicants state that the terms of the arrangement are fair and reasonable and do not involve overreaching. Applicants note that the consideration paid for the sale and redemption of shares of the Underlying Funds will be based on the net asset values of the Underlying Funds. Applicants state that the proposed arrangement will be consistent with the policies of each Fund of Funds as set forth in each Fund of Funds' registration statement, the policies of each Underlying Fund, and with the general purposes of the Act.

Applicants' Conditions

1. (a) The Adviser, (b) any person controlling, controlled by, or under common control with the Adviser, and (c) any investment company and any issuer that would be an investment company but for section 3(c)(1) or section 3(c)(7) of the Act advised by the Adviser or any person controlling, controlled by, or under common control with the Adviser (collectively, the ''Group'') will not control (individually or in the aggregate) a Non-Affiliated Underlying Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Non-Affiliated Underlying Fund, the Group, in the aggregate, becomes a holder of more than 25% of the outstanding voting securities of the Non-Affiliated Underlying Fund, the Group will vote its shares of the Non-Affiliated Underlying Fund in the same proportion as the vote of all other holders of the Non-Affiliated Underlying Fund's shares.

2. The Fund of Funds and its Adviser, promoter, and principal underwriter, and any person controlling, controlled by, or under common control with any of those entities (each a ''Fund of Funds Affiliate'') will not cause any existing or potential investment by the Fund of Funds in shares of a Non-Affiliated Underlying Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Non-Affiliated Underlying Fund or its investment adviser, sponsor, promoter, and principal underwriter, and any person controlling, controlled by, or under common control with any of those entities (each a ''Non-Affiliated Underlying Fund Affiliate'').

3. The Board of the Fund of Funds, including a majority of the Disinterested Trustees, will adopt procedures reasonably designed to ensure that the Adviser is conducting the investment program of the Fund of Funds without taking into account any consideration received by the Fund of Funds or Fund of Funds Affiliate from a Non-Affiliated Underlying Fund or a Non-Affiliated Underlying Fund Affiliate in connection with any services or transactions.

4. Once an investment by the Fund of Funds in the securities of a Non-Affiliated Underlying Fund exceeds the limits of section 12(d)(1)(A)(i) of the Act, the board of directors or trustees of each Non-Affiliated Underlying Fund, including a majority of the disinterested directors or trustees, will determine that any consideration paid by the Non-Affiliated Underlying Fund to the Fund of Funds or a Fund of Funds Affiliate (other than a GS Group entity) in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Non-Affiliated Underlying Fund; (b) is within the range of consideration that the Non-Affiliated Underlying Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned.

5. No Fund of Funds or Fund of Funds Affiliate will cause a Non-Affiliated Underlying Fund to purchase a security from an underwriting or selling syndicate in which a principal underwriter is an officer, director, member of an advisory board, investment adviser, or employee of the Fund of Funds or a person of which any such officer, director, member of an advisory board, investment adviser, or employee is an affiliated person (each an ''Underwriting Affiliate''). An offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (other than a GS Group entity) is referred to as an ''Affiliated Underwriting.''

6. The board of directors or trustees of a Non-Affiliated Underlying Fund, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to monitor any purchases by the Non-Affiliated Underlying Fund of securities in Affiliated Underwritings once an investment by the Fund of Funds in the securities of the Non-Affiliated Underlying Fund exceeds the limits of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate (other than a GS Group entity). The board of directors or trustees of the Non-Affiliated Underlying Fund will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds

in shares of the Non-Affiliated Underlying Fund. The board of directors or trustees of the Non-Affiliated Underlying Fund will consider, among other things, (a) whether the purchases were consistent with the investment objectives and policies of the Non-Affiliated Underlying Fund; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Non-Affiliated Underlying Fund in Affiliated Underwritings and the amount purchased directly from Underwriting Affiliates (other than a GS Group entity) have changed significantly from prior years. The board of directors or trustees of the Non-Affiliated Underlying Fund shall take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities from Affiliated Underwritings are in the best interests of shareholders.

7. A Non-Affiliated Underlying Fund shall maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications, and shall maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase from an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase made once an investment by the Fund of Funds in the securities of a Non-Affiliated Underlying Fund exceeded the limits of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the board's determinations were made.

8. Prior to an investment in shares of a Non-Affiliated Underlying Fund in excess of the limit in section 12(d)(1)(A)(i), the Fund of Funds and the Non-Affiliated Underlying Fund will execute an agreement stating, without limitation, that the board of directors or trustees of the Non-Affiliated Underlying Fund and the investment adviser to the Non-Affiliated Underlying Fund understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of a Non-Affiliated Underlying Fund in excess of the limit in section 12(d)(1)(A)(i), the Fund of Funds will notify the Non-Affiliated Underlying Fund of the investment. At such time, the Fund of Funds also will transmit to the Non-Affiliated Underlying Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Non-Affiliated Underlying Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Non-Affiliated Underlying Fund and the Fund of Funds will maintain and preserve a copy of the order, the agreement, and the list with any updated information for a period of not less than six years from the end of the fiscal year in which any investment occurred, the first two years in an easily accessible place.

9. Prior to approving any investment advisory or management contract under section 15 of the Act, the Board of the Fund of Funds, including a majority of the Disinterested Trustees, will find that the advisory or management fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, the services provided to Underlying Funds in which the Fund of Funds will invest. This finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Fund of Funds.

10. Any sales charges and/or service fees (as those terms are defined in rule 2830 of the Conduct Rules of the NASD) charged with respect to shares of the Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in rule 2830 of the Conduct Rules of the NASD.

11. No Underlying Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund (a) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to (i) acquire securities of one or more affiliated investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions.

12. The Adviser will waive fees otherwise payable to the Adviser by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to a plan adopted by a Non-Affiliated Underlying Fund pursuant to rule 12b–1 under the Act) received by the Adviser, or an affiliated person of the Adviser, from a Non-Affiliated Underlying Fund in connection with the investment by the Fund of Funds in the Non-Affiliated Underlying Fund.

13. The nature of the services provided by Goldman Sachs to and the relationship with Goldman Sachs of any Fund of Funds relying on the requested order will be consistent with the representations made in the Benchmark Order. Goldman Sachs will not be an affiliated person or a second-tier affiliate of any investment adviser to any registered investment company relying on the requested order. Goldman Sachs and its affiliated persons will have no influence or control over the investments made by any registered investment company relying on the requested order. No affiliated person of Goldman Sachs will serve as a director of any registered investment company relying on the requested order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–10629 Filed 4–29–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [To be announced].

STATUS: Open meeting/closed meeting.

PLACE: 450 Fifth Street, NW., Room 6600, Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Wednesday, April 30, 2003 at 10 a.m., Thursday, May 1, 2003 at 10 a.m.

CHANGE IN THE MEETING: Time changes.

The Open Meeting schedule for Wednesday, April 30, 2003 at 10 a.m. has been changed to Wednesday, April 30, 2003 at 9:30 a.m.

The Closed Meeting scheduled for Thursday, May 1, 2003 at 10 a.m. has been changed to Thursday, May 1, 2003 at 3 p.m.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 942–7070.

Dated: April 28, 2003.

Jonathan G. Katz,

Secretary.

[FR Doc. 03–10780 Filed 4–28–03; 2:18 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. PA–33; File No. S7–09–03]

Privacy Act of 1974: Establishment of a New System of Records: Emergency Contingency Plan System (SEC–51)

AGENCY: Securities and Exchange Commission.

ACTION: Notice of the establishment of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Securities and Exchange Commission (''SEC'' or ''Commission'') gives notice of a proposed new system of records entitled Emergency Contingency Plan System (SEC–51).

DATES: Information may be collected for the new system of records beginning on April 30, 2003. Comments on the proposed routine uses of the information must be received by May 30, 2003, and the routine uses will take effect June 9, 2003, unless the Commission receives comments that would require a different determination.

ADDRESSES: Please send three copies of your comments to Jonathan G. Katz, Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. You may also send your comments electronically to the following electronic address: *rule-comments@sec.gov.* All comments should refer to File No. S7–09–03 and, if sent electronically, should include this file number on the subject line. Comment letters will be available for public inspection and copying at our Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. If sent electronically, comment letters will also be available on our Web site (*http://www.sec.gov*).

FOR FURTHER INFORMATION CONTACT: Dana Schlichtmann, Office of the Executive Director, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–1101, (202) 942–4305.

SUPPLEMENTARY INFORMATION: The Commission gives notice of a new system of records, which is subject to the Privacy Act. The proposed system of records will maintain specified contact information on current members and employees of the Commission who may be contacted in emergency circumstances. The new system of records report, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, Federal Agency Responsibilities for Maintaining Records About Individuals, as amended on February 20, 1996 (61 FR 6435).

Accordingly, the Commission is adding the following system of records.

SEC–51

SYSTEM NAME:

Emergency Contingency Plan System.

SYSTEM LOCATION:

SEC, 450 Fifth Street, NW., Washington, DC 20549.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members and employees of the Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; job title; organizational code number; work and home addresses; work and personal electronic mail addresses; work, home, and cellular telephone numbers; pager numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Executive Order 12656 (Nov. 18, 1988), Assignment of Emergency Preparedness Responsibilities.

PURPOSE(S):

The purpose of this system of records is to maintain emergency contact information for current members and employees of the Commission for use in developing and maintaining emergency contingency operations plans, such as a formal continuity of operations (COOP) plan, for the Commission. This data will be used for alert and notification purposes, determining team and task assignments, developing and maintaining an emergency contact system for general emergency preparedness programs and specific situations. COOP activities involve ensuring the continuity of minimum essential agency functions through plans and procedures governing succession to office and the emergency delegation of authority (where permissible). Other emergency contingency plans include plans for Commission-wide response to threat alerts issued by the Department of Homeland Security (DHS).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the conditions of disclosure under 5 U.S.C. 552a(b), Commission staff may provide these records to any Federal government authority for the purpose of coordinating and reviewing agency continuity of operations plans or emergency contingency plans developed for responding to Department of Homeland Security threat alerts.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on paper and in electronic format.

RETRIEVABILITY:

These records are retrievable by individual's names, or by the categories listed above under ''Categories of Records in the System.''

SAFEGUARDS:

Access to the records is restricted to those who require the records in the performance of official duties related to the purposes for which the system is maintained.

RETENTION AND DISPOSAL:

Periodic purging and disposal of those records concerning individuals no longer members or employees of the Commission. Otherwise, records are retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Office of the Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1101.

NOTIFICATION PROCEDURE:

Requests to determine whether this system of records contains a record pertaining to the requesting individual should be sent to the Privacy Act Officer, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413.

RECORDS ACCESS PROCEDURES:

Persons wishing to access or contest these records should write the Privacy Act Officer, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413.

CONTESTING RECORD PROCEDURES:

See Records Access Procedures, above.

RECORD SOURCE CATEGORIES:

Records are obtained from the position control system and from the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

By the Commission.

Dated: April 23, 2003.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–10601 Filed 4–29–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47720; File No. SR–BSE–2003–02]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Extending Its Operating Hours for the Trading of Nasdaq Securities

April 23, 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 March 17, 2003, the Boston Stock Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On April 10, 2003, the Exchange filed Amendment No. 1 to the proposed rule change.[3] 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 seeks to amend the Nasdaq trading rules set forth in the Rules of the Board of Governors of the Exchange to allow for extended hours for the trading of Nasdaq securities.

Set forth below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

Chapter XXXV

Trading in Nasdaq Securities

* * * * *

Dealings on the Floor—Hours

Section 8. [Pursuant to Chapter I–B, Sec. 2, Dealings on the Floor—Hours, no member or member organization shall make any bid, offer or transaction upon the floor of the Exchange, issue a commitment to trade through ITS or send an order for a Nasdaq security to a Nasdaq System market maker other than during the hours the Exchange is open for the transaction of business. Nasdaq securities will not be eligible to participate in the Post Primary Session.] *For the purposes of transacting business in Nasdaq securities only, the Exchange shall be open from 7 a.m. until 6:30 p.m. Only transactions in Nasdaq securities will be permitted outside the hours of 9:30 a.m. and 4:15 p.m., in accordance with Chapter I–B, Business Hours, Section 1, Primary Session, and Section 1(a) Post Primary Session.*

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing an alteration of the hours the Exchange is to be open for trading Nasdaq securities. Presently, Chapter XXXV of the Rules, *Trading in Nasdaq Securities,* Section 8, *Dealings on the Floor—Hours,* limits the hours of trading in Nasdaq securities on the Exchange to the hours of 9:30 a.m. to 4 p.m. The Exchange would delete the present rule and replace it with one which would permit the transaction of business, in Nasdaq securities only, between the hours of 7 a.m. and 6:30 p.m. The Exchange believes that such an extension of hours would allow Exchange members who trade Nasdaq securities to remain competitive with their counterparts on other exchanges that trade Nasdaq securities pursuant to unlisted trading privileges, as well as NASD members who are permitted to conduct transactions in Nasdaq securities during this extended period. Furthermore, the Exchange believes that such extended hours are contemplated and permitted by Article XI of the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis (''OTC/UTP Plan'')[4]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,[5] in general, and Section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating securities transactions, to remove impediments to and perfect the mechanism of a free and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange amended the proposal to state that it deemed the proposed rule change to be non-controversial in nature (rather than concerned solely with the administration of the Exchange) and sought immediate effectiveness of the proposed rule change pursuant to Section 19(b)(3)(A) of the Act and waiver of the 30-day operative period for the effectiveness of the rule change proposal. *See* Letter dated April 10, 2003, from John Boese, Vice President, Legal and Compliance, Exchange, to Katherine England, Assistant Director, Division of Market Regulation, Commission. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers that the period to commence on April 10, 2003, the date the Exchange filed Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

[4] The OTC/UTP Plan was initially approved in 1990. *See* Securities Exchange Act Release No. 28146 (June 26, 1990), 55 FR 27917 (July 6, 1990). It has subsequently been amended. *See* also Securities Exchange Act Release Nos. 34371 (July 13, 1994), 59 FR 37103 (July 20, 1994); 35221 (January 11, 1995), 60 FR 3886 (January 19, 1995); 36102 (August 14, 1995), 60 FR 43626 (August 22, 1995); 36226 (September 13, 1995), 60 FR 49029 (September 21, 1995); 36368 (October 13, 1995), 60 FR 54091 (October 19, 1995); 36481 (November 13, 1995), 60 FR 58119 (November 24, 1995); 36589 (December 13, 1995), 60 FR 65696 (December 20, 1995); 36650 (December 28, 1995), 61 FR 358 (January 4, 1996); 36934 (March 6, 1996), 61 FR 10408 (March 13, 1996); 36985 (March 18, 1996), 61 FR 12122 (March 25, 1996); 37689 (September 16, 1996), 61 FR 50058 (September 24, 1996); 37772 (October 1, 1996), 61 FR 52980 (October 9, 1996); 38457 (March 31, 1997), 62 FR 16880 (April 8, 1997); 38794 (June 30, 1997), 62 FR 36586 (July 8, 1997); 39505 (December 31, 1997), 63 FR 1515 (January 9, 1998); 40151 (July 1, 1998), 63 FR 36979 (July 8, 1998); 40896 (December 31, 1998), 64 FR 1834 (January 12, 1999); 41392 (May 12, 1999), 64 FR 27839 (May 21, 1999); 42268 (December 23, 1999), 65 FR 1202 (January 6, 2000); 43005 (June 30, 2000), 65 FR 42411 (July 10, 2000); 44099 (March 23, 2001), 66 FR 17457 (March 30, 2001); 44348 (May 24, 2001), 66 FR 29610 (May 31, 2001); 44552 (July 13, 2001), 66 FR 37712 (July 19, 2001); 44694 (August 14, 2001), 66 FR 43598 (August 20, 2001); 44804 (September 17, 2001), 66 FR 48299 (September 19, 2001); 45081 (November 19, 2001), 66 FR 59273 (November 27, 2001); 46381 (August 19, 2002), 67 FR 164 (August 23, 2002); 46729 (October 25, 2002), 67 FR 212 (November 1, 2002).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition 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

Written comments were neither solicited nor received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action [7]

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] 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.

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the Exchange to extend the trading hours for transactions in Nasdaq securities with immediate effect and prevent any unfair competitive disadvantage with respect to the hours in which Nasdaq securities can be traded on the Exchange. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR–BSE–2003–02 and should be submitted by May 21, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–10603 Filed 4–29–03; 8:45 am]

BILLING CODE 8010–01–P

[7] At the Exchange's request, the Commission corrected the rationale and the citation to the section of the Act pursuant to which the proposed rule change has become immediately effective. Telephone conversation among John Boese, Vice President, Legal and Compliance, Exchange; Christopher B. Stone, Special Counsel, Division of Market Regulation, Commission; and Ann E. Leddy, Attorney, Division of Market Regulation, Commission (April 21, 2003).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] For purposes only of accelerating the operative date of the proposed rule change, the Commission considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47721; File No. SR–MSRB–2003–01]

Self-Regulatory Organizations; Order Granting Approval of a Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to the Establishment of an Optional Procedure for Electronic Submission of Forms G–37/G–38 and G–37x Under Rule G–37, on Political Contributions and Prohibitions on Municipal Securities Business, and Rule G–38, on Consultants

April 23, 2003.

On March 21, 2003, the Municipal Securities Rulemaking Board (''MSRB'') filed with the Securities & Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'') [1], and Rule 19b–4 thereunder,[2] a proposed rule change (File No. SR–MSRB–2003–01). The MSRB's rule change amends Rule G–37, on political contributions and prohibitions on municipal securities business, and Rule G–38, on consultants, by establishing an optional procedure for electronic submission of Forms G–37/G–38 and G–37x.

The proposed rule change was published for notice and comment in the **Federal Register** on April 1, 2003.[3] The Commission did not receive comment letters on the proposed rule change. This order approves the proposed rule change.

I. Description of the Proposed Rule Change

Currently, Rules G–37 and G–38 require brokers, dealers and municipal securities dealers (''dealers'') to submit to the MSRB on Form G–37/G–38 certain information regarding political contributions to issuer officials, payments to state and local political parties, issuers with which the dealer has engaged in municipal securities business and consultants engaged by the dealer to obtain municipal securities business. Certain dealers that wish to be exempted from the Form G–37/G–38 submission requirement must submit Form G–37x to the MSRB.

Under the rule change, the MSRB is implementing an optional system of electronic submission by dealers of Forms G–37/G–38 and G–37x to the MSRB. In order to effectuate this electronic system, the MSRB is amending rules G–37 and G–38.[4] The rule change will become effective on the later of June 30, 2003 or 30 days after Commission approval. The MSRB expects that the new electronic submission system will become operational concurrently therewith.

II. Summary of Comments

The Commission did not receive comment letters relating to the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Release No. 34–47565 (Mar. 25, 2003), 68 FR 15782.

[4] Technical amendments to the final sentence of Rule G–38(e) and to Rule G–38(e)(iii) are also made to conform language to usage throughout MSRB rules.

III. Discussion and Commission Findings

Section 19(b) of the Exchange Act [5] requires the Commission to approve the proposed rule change filed by the MSRB if the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder.

The Commission has reviewed carefully the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder, which govern the MSRB.[6] The language of Section 15B(b)(2)(C) of the Act requires that the MSRB's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.[7] The rule change is consistent with the Exchange Act in that it amends an existing MSRB rule to allow for an alternative efficient process of submitting required information by dealers to the MSRB.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Exchange Act,[8] that the proposed rule change (File No. SR–MSRB–2003–01) be and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–10602 Filed 4–29–03; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78s(b).

[6] Additionally, in approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[7] 715 U.S.C. 78o–4(b)(2)(C).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47726; File No. SR–NASD–2002–107]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change and Amendment Nos. 1, 2, 3, and 4 Thereto by the National Association of Securities Dealers, Inc. to Retroactively Establish Maximum Execution Fees and Liquidity Provider Rebates for SuperSoes Transactions in Low-Priced Securities

April 23, 2003.

On August 6, 2002, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary The Nasdaq Stock Market, Inc. (''Nasdaq''), 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 retroactively establish maximum execution fees and liquidity provider rebates for SuperSoes transactions in low-priced securities.[3] On August 19, 2002; August 30, 2002; October 9, 2002; and February 21, 2003, Nasdaq submitted Amendment Nos. 1, 2, 3, and 4, respectively, to the proposed rule change.[4] The proposed rule change, as amended, was published for comment in the **Federal Register** on March 19, 2003.[5] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association [6] and, in particular, the requirements of section 15A of the Act [7] and the rules and regulations thereunder. The Commission finds specifically that the proposal is consistent with the requirements of section 15A(b)(5) of the Act,[8] because it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which NASD operates. The Commission believes that the proposed fee and rebate limits should balance the interests of lowering execution costs for market participants and providing reasonable rebates for transactions involving low-priced securities.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change, as amended, (File No. SR–NASD–2002–107) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–10630 Filed 4–29–03; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that Nasdaq also submitted a separate proposed rule change that established these same fee and rebate limits on a going-forward basis. *See* Securities Exchange Act Release No. 47441 (March 4, 2003), 68 FR 11432 (March 10, 2003) (File No. SR–NASD–2002–106).

[4] *See* letters from Thomas P. Moran, Associate General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated August 16, 2002, August 30, 2002, October 9, 2002, and February 20, 2003.

[5] *See* Securities Exchange Act Release No. 47488 (March 12, 2003), 68 FR 13356.

[6] 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).

[7] 15 U.S.C. 78*o*–3.

[8] 15 U.S.C. 78*o*–3(b)(5).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Region IV—North Florida District Advisory Council; Public Meeting

The Small Business Administration Region IV North Florida District Advisory Council, located in the geographical area of Jacksonville, Florida, will hold a public meeting at 11 a.m. Eastern Standard Time on Thursday, June 12, 2003, at the National Entrepreneur Center in downtown Orlando, 315 E. Robinson St., Landmark 1 Building, to discuss such matters as may be presented by Advisory Council members, staff of the Small Business Administration, and/or others present.

Anyone wishing to make an oral presentation to the Board must contact Lola Kress, SBA Public Affairs Specialist, in writing by letter or fax no later than June 10th, 2003, in order to be put on the agenda. Please direct requests to: Lola Kress, Public Affairs Specialist, U.S. Small Business Administration, North Florida District Office, 7825 Baymeadows Way, Suite 100B, Jacksonville, Florida 32256, (904) 443–1900 phone, (904) 443–1980 fax; *wilfredo.gonzalez@sba.gov*

FOR FURTHER INFORMATION: Write or call Lola Kress, U.S. Small Business Administration, 7825 Baymeadows

Way, Suite 100–B, Jacksonville, Florida 32256–7504, telephone (904) 443–1933.

Candace H. Stoltz,

Director Advisory Councils.

[FR Doc. 03–10607 Filed 4–29–03; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4344]

Culturally Significant Objects Imported for Exhibition Determinations: ''Max Beckmann''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985; 22 U.S.C. 2459], Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, I hereby determine that one additional object to be included in the exhibition, ''Max Beckmann,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The additional object is imported pursuant to a loan agreement with a foreign lender. I also determine that the exhibition or display of the additional exhibit object at the Museum of Modern Art, Long Island City, Queens, New York, from on or about June 26, 2003, to on or about September 29, 2003, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: April 23, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–10643 Filed 4–29–03; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 159: Global Positioning System (GPS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 159 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 159: Global Positioning System.

DATES: The meeting will be held May 12–16, 2003, from 9 a.m. to 4:30 p.m. (unless stated otherwise).

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036, telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 159 meeting. *NOTE: Specific working group sessions will be held May 12–15.* The plenary agenda will include:

- May 16:
  - Opening Plenary Session (Welcome and Introductory Remarks, Approve Minutes of Previous Meeting)
  - Review Working Group Progress and Identify Issues for Resolution
  - Global Positioning System (GPS)/ 3rd Civil Frequency (WG–1)
  - GPS/Wide Area Augmentation System (WAAS) WG–2)
  - GPS/GLONASS (WG–2A)
  - GPS/Inertial (WG–2C)
  - GPS/Precision Landing Guidance (WG–4)
  - GPS/Airport Surface Surveillance (WG–5)
  - GPS/Interference (WG–6)
  - SC–159 Ad Hoc
  - Review of EUROCAE activities
  - Closing Plenary Session (Assignment/Review of Future Work, Other Business, Date and Place of Next Meeting)

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 16, 2003.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 03–10573 Filed 4–29–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 200/ EUROCAE Working Group 60: Modular Avionics, Second Joint Plenary Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 200/EUROCAE Working Group 60 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 200/ EUROCAE Working Group 60: Modular Avionics.

DATES: The meeting will be held May 20–22, 2003 starting at 9 a.m.

ADDRESSES: The meeting will be held at Diehl Avionik Systeme GmbH, Alte NuBdorfer StraBe 13, D–88662 Uberlingen, Germany.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org;* (2) Enrico PIVETTA; telephone +49 7551 89 4403; fax +49 7551 89 6001; e-mail *enrico.pivetta@diehl-avionik.de.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 200/EUROCAE Working Group 60 meeting. The agenda will include:

- May 20:
  - Opening Plenary Session (Welcome and Introductory Remarks, Review Agenda, Review/Approve previous Common Plenary Summary, Review Open Action Items)
  - Briefing of status of other committees
  - Report on Subgroup Activities since Joint Meeting Number 2
  - Plenary review of Document Outline & Glossary
  - Way ahead to deliverable Document/Draft planning
  - Subgroup targets for this meeting
- May 21:
  - Individual Subgroup meetings
  - May 22:
  - Report of Subgroup meetings

- Consolidate planning
- Closing Plenary Session (Review Action Items, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 16, 2003.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 03–10574 Filed 4–29–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Government/Industry Free Flight Steering Committee Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Government/Industry Free Flight Steering Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Government/Industry Free Flight Steering Committee.

DATES: The meeting will be held May 8, 2003, from 1–3:30 p.m.

ADDRESSES: The meeting will be held at FAA Headquarters, 800 Independence Avenue, SW., Bessie Coleman Conference Center (Rm. 2AB), Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., appendix 2), notice is hereby given for a Free Flight Steering Committee meeting. *Note: Non-Government attendees to the meeting must go through security and be escorted to and from the conference room.* The agenda will include:

- May 8:
  - Opening Section (Welcome and Introductory Remarks, Review/Approve Summary of Previous Meeting)
  - Free Flight Select Committee Reports
  - Federal Aviation Administration Presentations
  - Free Flight Steering Committee Meeting Dates for the balance of Calendar Year 2003
  - Closing Session (Other Business, Date and Place of Next Meeting)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 23, 2003.

Jane Caldwell,

Program Director, System Engineering Resource Management.

[FR Doc. 03–10575 Filed 4–29–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Fort Lauderdale-Hollywood International Airport, Fort Lauderdale, FL

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 Fort Lauderdale-Hollywood 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) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 30, 2003.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to William F. Sherry, Director of Aviation of the Broward County Aviation Department at the following address: Broward County Aviation Department, 320 Terminal Drive, Fort Lauderdale, FL 33315.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Broward County Aviation Department under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Matthew J. Thys, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822, (407–812–6331, Ext. 21. 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 Fort Lauderdale-Hollywood 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) (Public Law 101– 508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On Date of Letter of Completeness, the FAA determined that the application to impose and use the revenue from a PFC submitted by Broward County 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 July 25, 2003.

The following is a brief overview of the application.

PFC Application No.: 03–05–C–00–FLL.

Level of the Proposed PFC: $3.00

Proposed charge effective date: March 1, 2008.

Proposed charge expiration date: March 1, 2011.

Total estimated net PFC revenue: $91,967,755.

Brief description of proposed project(s): Exit Roadways (Pre-Design), Concourse A (Pre-Design), Concourse A Apron (Pre-Design), International terminal—FIS, Automated People Mover (Pre-Design), Master Plan Update, Taxiway C—West of RW 13/31, Taxiway C—East of RW 13/31 (Design), Exit Roadways (Design & Construction).

Class or classes or air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators 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 Broward County Aviation Department.

Issued in Orlando, FL on Current Date.

W. Dean Stringer,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 03–10577 Filed 4–29–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 03–02–C–00–PKB To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Wood County Airport, Parkersburg, WV

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 Wood County Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 30, 2003.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: 176 Airport Circle, Room 101, Beaver, WV 25813.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mrs. Carolyn Strock, Manager of the Wood County Airport at the following address: Wood County Airport, P.O. Box 4089, Parkersburg, West Virginia 26104–4089.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Wood County Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew DiGiulian, Civil Engineer, Beckley Airports Field Office, 176 Airport Circle, Room 101, Beaver, WV 25813, (304) 252–6216. 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 Wood County Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 15, 2003, the FAA determined that the application to impose and use the revenue from a PFC submitted by Wood County Airport Authority 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 July 15, 2003.

The following is a brief overview of the application.

Proposed charge effective date: July 1, 2003.

Proposed charge expiration date: January 1, 2009.

Level of the proposed PFC: $4.50.

Total estimated PFC revenue: $322,502.

Brief description of proposed project(s):

—Terminal Improvements
—Airfield Drainage Improvements
—Repair Aircraft Parking Apron
—Conduct Master Plan Update
—Acquire Snow Removal Equipment
—Terminal/Security Improvements
—Rehabilitate Runway 3/21

Class or classes of air carriers which the public agency has requested not be required to collect PFCs:

—All carriers operating under FAR part 135, FAR part 91, and any unscheduled carriers operating under FAR part 121.

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: AEA–610, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Wood County Airport Authority.

Issued in Beckley, West Virginia, on April 14, 2003.

Larry F. Clark,

Manager, Beckley Airports Field Office, Eastern Region.

[FR Doc. 03–10576 Filed 4–29–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2003–14652]

Commercial Driver's License Standards; Isuzu Motors America, Inc.'s Exemption Application

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The FMCSA announces receipt of an application from Isuzu Motors America, Inc. (Isuzu), requesting an exemption from the agency's requirement of 49 CFR 383.23 for drivers of commercial motor vehicles (CMVs) to hold a commercial driver's license (CDL). Isuzu requested the exemption for 31 Japanese engineers and technicians who will be test-driving CMVs for Isuzu. All of the individuals hold a valid Japanese commercial license and are specially trained in driving CMVs in Japan. They normally work at Isuzu Motors Limited (IML) in Japan where their duties involve developing, designing, and/or testing engines for CMVs that will be manufactured, assembled, sold or primarily used in the United States. Isuzu states the exemption is necessary in order to allow the required testing of CMVs in various climatic and environmental conditions within the United States. Isuzu also states the written and driving tests and training program that Japanese drivers must undergo for a Japanese CDL, ensure a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation. If granted, the exemption would preempt inconsistent State and local requirements applicable to both interstate and intrastate commerce.

DATES: Please submit comments by May 30, 2003.

ADDRESSES: Submit comments by mail or messenger service to the U.S. Department of Transportation, Dockets Management System, 400 Seventh Street, SW., Room Plaza Level-401, Washington, DC 20590–0001. To receive confirmation of receipt of your written comments, include a self-addressed, stamped postcard. You may submit comments electronically to the Dockets Management System (DMS) Web site at *http://dms.dot.gov,* and click on comments/submissions; or by fax to (202) 493–2251. Be sure your comments refer to docket number FMCSA–2003–14652.

All comments and material received from the public, as well as this notice and the application mentioned in the notice, are available for review in the public docket. You may inspect or copy documents at the Dockets Management Facility at the above address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also view and copy documents through the DMS Web site at *http://dms.dot.gov,* and click on simple search.

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Doggett, (202) 366–2990, Office of Bus and Truck Standards and

Operations (MC–PSP); or Mr. Joseph Solomey, (202) 366–1374, Office of the Chief Counsel (MC–CC), Federal Motor Carrier Safety Administration, DOT, 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:

Background

Sections 31315 and 31136 of title 49 of the United States Code (U.S.C.) provide the FMCSA with authority to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). An exemption provides relief to a person or class of persons subject to the regulations for up to two years, and may be renewed. These provisions also require the exemption to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained if the applicant complied with the regulations.

On December 8, 1998, FMCSA published an interim final rule implementing section 4007 of the Transportation Equity Act for the 21st century (TEA–21) (codified at 49 U.S.C. 31315 (see 63 FR 67600)). The regulations at 49 CFR part 381 establish the procedures to be followed to request waivers and to apply for exemptions from the FMCSRs, and the provisions used to process them.

The agency must publish a notice in the **Federal Register** for each exemption requested, explaining that the request has been filed, providing the public with an opportunity to inspect the safety analysis and any other relevant information known to the agency; and provide an opportunity for public comment on the exemption. (*See* 49 U.S.C. 31315(b) and 49 CFR 381.315).

Before granting a request for an exemption, the agency must publish a notice in the **Federal Register** identifying: (1) Who would receive the exemption, (2) what regulation would be covered by the exemption, (3) how long the exemption would be in effect, and (4) all terms and conditions of the exemption. The terms and conditions established by the FMCSA must ensure that the exemption will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with the regulation.

Isuzu Application for an Exemption

Isuzu Motors America, Inc. (Isuzu) applied for an exemption from the commercial driver's licensing rules, specifically 49 CFR 383.23, which provides licensing requirements for drivers operating CMVs in interstate commerce. Isuzu is seeking this exemption because the drivers it employs are citizens and residents of Japan.

FMCSA is responsible for the administration and enforcement of the FMCSRs, including the commercial driver's license requirements. Section 383.23(a)(2) states that no person shall operate a CMV unless such person possesses a CDL issued by his or her jurisdiction of domicile. There is an exception to this rule which states that CMV drivers domiciled in other jurisdictions that do not test drivers and issue licenses in accordance with Federal regulations must obtain a nonresident CDL from a State which does comply with the Federal testing and licensing standards.

The drivers working for Isuzu hold current commercial licenses issued by the Japanese authorities and meet testing and driver qualification standards, including medical examinations, which are comparable to those administered by jurisdictions in the United States to applicants for State-issued CDLs. The Japanese-issued license indicates that the drivers have the knowledge and skills necessary to comply with the agency's rules. A copy of the application is in the docket identified at the beginning of this notice.

The exemption would allow the following drivers to operate tractor trailer combination vehicles in interstate commerce as part of a team of drivers who develop, design and/or test engines for CMVs that will be manufactured, assembled, sold or primarily used in the United States: Shintaro Moroi, Shigeru Takamatsu, Norio Takeda, Takeshi Yamagishi, Satoru Amemiya, Toshiya Asari, Yasunori Fujita, Shiro Fukuda, Tetsuya Hiromatsu, Kazunori Ligo, Masao Inoue, Akihuro Kashiwakura, Kinya Kitamura, Tsuyoshi Koyama, Takao Kudo, Wataru Kumakura, Yoshihiko Matsubara, Nobuyuki Miyazaki, Ryo Natsume, Motoki Nishi, Takuo Nishi, Fumio Oota, Masuru Otsu, Toshimitsu Sato, Kazuyoshi Shimamura, Masahito Suzuki, Yasuhito Tahara, Hiroyoshi Takahashi, Takashi Tanabe, Takehito Yaguchi, and Tsutomu Yamazaki.

The vehicles these drivers intend to operate will be tested in various climates and highway conditions in the states of Arizona, California, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Nebraska, Nevada, Ohio, Utah and Wyoming.

These drivers are a team of designers, currently employed by IML in Japan, who want to drive CMVs in the United States to test and evaluate production and prototype CMVs in order to design safe and well-tested vehicles for use on U.S. highways. They are fully qualified CMV operators with valid Japanese-issued commercial licenses. The company ensures that the qualifications are maintained and all current Japanese laws are followed. Due to strict regulations in Japan for drivers holding Japanese-issued licenses and extensive CMV training and experience, Isuzu Motors America, Inc. believes that the exemption is likely to achieve a level of safety equivalent to the level of safety that would be obtained absent the exemption.

Isuzu does not anticipate any adverse safety impacts from this exemption due to the fact that Japanese authorities adhere to very strict commercial driver testing and licensing procedures.

Method To Ensure an Equivalent or Greater Level of Safety

Drivers applying to obtain a Japanese-issued commercial license must take both a knowledge test and skills test before a license to operate CMVs is issued. Prior to taking the tests, drivers are required to hold a conventional driver's license for at least three years. The process for obtaining a Japanese-issued commercial license is very rigorous and comprehensive, and Isuzu considers it to be comparable to, or as effective as the requirements of part 383 of the Federal requirements and adequately assesses the driver's ability to operate CMVs in the United States.

Once a Japanese driver is granted a commercial license, he/she is allowed to drive any CMV currently allowed on Japan roads. There are no limits to types or weights of vehicles that may be operated by the drivers. The drivers affected by the exemption will be operating tractor-trailer units. These vehicles will not be used for transporting merchandise as a commercial activity. It is estimated that each driver will drive approximately 5,000 miles on U.S. roads.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment from all interested persons on Isuzu's application for an exemption from the CDL requirement of 49 CFR 383.23. The agency may grant or deny the application based on the comments received and any other relevant information that is available to the agency. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable, but

FMCSA may make its decision at any time after the close of the comment period. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Authority: 49 U.S.C. 31136 and 31315; and 49 CFR 1.73.

Issued on: April 23, 2003.

Annette M. Sandberg,

Acting Administrator.

[FR Doc. 03–10571 Filed 4–29–03; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number FRA–2003–14646

Applicant: Canadian National Railway, Mr. Dwight Tays, Chief Engineer, 1004—104th Avenue, Floor 16, Edmonton, Alberta, Canada T5J–0K2.

The Canadian National Railway (CN) seeks relief from the requirements of the Rules, Standards and Instructions, 49 CFR, part 236, § 236.110, to the extent that each test record need not be signed by the person making the inspection or test. CN is implementing an electronic system for recording and maintaining signal inspection and test records. The system will provide inherent security measures, which will uniquely identify the person entering the electronic record by means of an encoded PIN number. Once a record is entered and verified it cannot be modified. In conjunction with this relief, CN also requests the utilization of an electronic system for recording and maintaining applicable inspection and test records as defined in 49 CFR, part 234, subject to approval by the Associate Administrator for Safety, as required by § 234.273.

Applicant's justification for relief: CN believes that the electronic system will serve the best interest of both CN and the Federal and State Inspection authorities that are required to inspect records. CN also anticipates this system will provide many benefits, including:

- Improved availability of test records.
- Improved management reporting of compliance.
- Improved consistency for filing records.
- A reduction in the need for paper documentation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on April 23, 2003.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–10582 Filed 4–29–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement (VISA)

AGENCY: Maritime Administration, DOT.

ACTION: Notice of open season for enrollment in fiscal year (FY) 2004 VISA Program.

Introduction

The VISA program was established pursuant to section 708 of the Defense Production Act of 1950, as amended (DPA), which provides for voluntary agreements for emergency preparedness programs. VISA was approved for a two year term on January 30, 1997, and published in the **Federal Register** on February 13, 1997, (62 FR 6837). Approval was extended through February 13, 2005, and published in the **Federal Register** on February 25, 2003 (68 FR 8800).

As implemented, VISA is open to U.S.-flag vessel operators of militarily useful vessels, including bareboat charter operators if satisfactory signed agreements are in place committing the assets of the owner to the bareboat charterer for purposes of VISA. While tug/barge operators must own or bareboat charter barges committed to the VISA program, it is not required that these operators commit tug service through bareboat charter or ownership arrangements. Time charters of U.S.-flag tugs will satisfy commitments to the VISA program. By order of the Maritime Administrator on August 4, 1997, participation of U.S.-flag deepwater tug/barge operators in VISA was encouraged. Voyage, and space charterers are not considered U.S.-flag vessel operators for purposes of VISA eligibility.

VISA Concept

The mission of VISA is to provide commercial sealift and intermodal shipping services and systems, including vessels, vessel space, intermodal systems and equipment, terminal facilities, and related management services, to the Department of Defense (DOD), as necessary, to meet national defense contingency requirements or national emergencies.

VISA provides for the staged, time-phased availability of participants' shipping services/systems to meet contingency requirements through prenegotiated contracts between the Government and participants. Such arrangements are jointly planned with the Maritime Administration (MARAD), U.S. Transportation Command (USTRANSCOM), and participants in peacetime to allow effective and best valued use of commercial sealift capacity, to provide DOD assured contingency access, and to minimize commercial disruption, whenever possible.

VISA Stages I and II provide for prenegotiated contracts between the DOD and participants to provide sealift capacity to meet all projected DOD

contingency requirements. These contracts are executed in accordance with approved DOD contracting methodologies. VISA Stage III will provide for additional capacity to the DOD when Stage 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.

FY 2004 VISA Enrollment Open Season

The purpose of this notice is to invite interested, qualified U.S.-flag vessel operators that are not currently enrolled in the VISA program to participate in the program for FY 2004 (October 1, 2003, through September 30, 2004). Current participants in the VISA program are not required to apply for FY 2004 reenrollment, as VISA participation will be automatically extended for FY 2004. This is the sixth annual enrollment period since the commencement of the VISA program. The annual enrollment was initiated because VISA has been fully integrated into DOD's priority for award of cargo to VISA participants. It is necessary to link the VISA enrollment cycle with DOD's peacetime cargo contracting cycle.

New VISA applicants are required to submit their applications for the FY 2004 VISA program as described in this Notice no later than May 30, 2003. This alignment of VISA enrollment and eligibility for VISA priority will solidify the linkage between commitment of contingency assets by VISA participants and receiving VISA priority consideration for the award of FY 2004 DOD peacetime cargo.

This is the only planned enrollment period for carriers to join VISA and derive benefits for DOD peacetime contracts during FY 2004. The only exception to this open season period for VISA enrollment will be for a non-VISA carrier that reflags a vessel into U.S. registry. That carrier may submit an application to participate in the VISA program at any time upon completion of reflagging.

Advantages of Peacetime Participation

Because enrollment of carriers in VISA provides the DOD with assured access to sealift services during contingencies based on a level of commitment, as well as a mechanism for joint planning, the DOD awards peacetime cargo contracts to VISA participants on a priority basis. This applies to liner trades and charter contracts alike. Award of DOD cargoes to meet DOD peacetime and contingency requirements is made on the basis of the following priorities:

- U.S.-flag vessel capacity operated by VISA participants, and U.S.-flag Vessel Sharing Agreement (VSA) capacity held by VISA participants.
- U.S.-flag vessel capacity operated by non-participants.
- Combination U.S.-flag/foreign-flag vessel capacity operated by VISA participants, and combination U.S.-flag/foreign-flag VSA capacity held by VISA participants.
- Combination U.S.-flag/foreign-flag vessel capacity operated by non-participants.
- U.S.-owned or operated foreign-flag vessel capacity and VSA capacity held by VISA participants.
- U.S.-owned or operated foreign-flag vessel capacity and VSA capacity held by non-participants.
- Foreign-owned or operated foreign-flag vessel capacity of non-participants.

Participants

Any U.S.-flag vessel operator organized under the laws of a state of the United States, or the District of Columbia, who is able and willing to commit militarily useful sealift assets and assume the related consequential risks of commercial disruption, may be eligible to participate in the VISA program. While vessel brokers and agents play an important role as a conduit to locate and secure appropriate vessels for the carriage of DOD cargo, they may not become participants in the VISA program due to lack of requisite vessel ownership or operation. However, brokers and agents should encourage the carriers they represent to join the program.

Commitment

Any U.S.-flag vessel operator desiring to receive priority consideration in the award of DOD peacetime contracts must commit no less than 50 percent of its total U.S.-flag militarily useful capacity in Stage III of the VISA program. A participant desiring to bid on DOD peacetime contracts will be required to provide commitment levels to meet DOD-established Stages I and/or II minimum percentages of the participant's military useful, oceangoing U.S-flag fleet capacity on an annual basis. The 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. To minimize domestic commercial disruption, participants operating vessels exclusively in the domestic Jones Act trades are not required to commit the capacity of those U.S. domestic trading vessels to VISA Stages I and II. Overall VISA commitment requirements are based on annual enrollment.

In order to protect a U.S.-flag vessel operator's market share during contingency activation, VISA allows participants to join with other vessel operators in Carrier Coordination Agreements (CCA's) to satisfy commercial or DOD requirements. VISA provides a defense against antitrust laws in accordance with the DPA. CCA's must be submitted to MARAD for coordination with the Department of Justice for approval, before they can be utilized.

Compensation

In addition to receiving priority in the award of DOD peacetime cargo, a participant will receive compensation during contingency activation. During enrollment, each participant may choose a compensation methodology which is commensurate with risk and service provided. The compensation methodology selection will be completed with the appropriate DOD agency.

Enrollment

New applicants may enroll by obtaining a VISA application package (Form MA–1020 (OMB Approval No. 2133–0532)) from the Director, Office of Sealift Support, at the address indicated below. Form MA–1020 includes instructions for completing and submitting the application, blank VISA Application forms and a request for information regarding the operations and U.S. citizenship of the applicant company. A copy of the February 25, 2003, VISA will also be provided with the package. This information is needed in order to assist MARAD in making a determination of the applicant's eligibility. An applicant company must provide an affidavit that demonstrates that the company is qualified to document a vessel under 46 U.S.C. 12102, and that it owns, or bareboat charters and controls, oceangoing, militarily useful vessel(s) for purposes of committing assets to VISA. As previously mentioned, VISA applicants must return the completed VISA application documents to MARAD not later than May 30, 2003. Once MARAD has reviewed the application and determined VISA eligibility, MARAD will sign the VISA application document which completes the eligibility phase of the VISA enrollment process.

In addition, the applicant will be required to enter into a contingency contract with the DOD. For the FY 2004 VISA open season, and prior to being

enrolled in VISA, eligible VISA applicants will be required to execute a joint VISA Enrollment Contract (VEC) with the DOD (Military Traffic Management Command (MTMC) and Military Sealift Command (MSC)) which will specify the participant's Stage III commitment for FY 2004. Once the VEC is completed, the applicant completes the DOD contracting process by executing a Drytime Contingency Contract (DCC) with MSC (for Charter Operators) and/or as applicable, a VISA Contingency Contract (VCC) with MTMC (for Liner Operators). Upon completion of the DOD contingency contract(s), the Maritime Administrator will confirm the participant's enrollment by letter agreement, with a copy to all appropriate parties.

For Additional Information and Applications Contact: Frances M. Olsen, Deputy Director, Office of Sealift Support, U.S. Maritime Administration, Room 7307, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–2323. Fax (202) 493–2180. Other information about the VISA can be found on MARAD's Internet Web page at *http://www.marad.dot.gov.*

By Order of the Maritime Administrator.

Dated: April 24, 2003.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 03–10579 Filed 4–29–03; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2002–13811; Notice 1]

Ford Motor Company; Receipt of Application for Decision of Inconsequential Noncompliance

Ford Motor Company (Ford) has determined that certain 2003 Model Year Econoline Cargo Vans are equipped with convex passenger-side mirrors that fail to meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 111 ''Rearview mirrors.''

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Ford has applied for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.''

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

Ford manufactured 2,330 vans with convex passenger-side mirrors. Paragraph S6.1 of the standard requires that multipurpose passenger vehicles, trucks, and buses with a gross vehicle weight rating of 4,536 kg or less have either mirrors that conform to paragraph S5 or outside mirrors of unit magnification. Paragraph S5, in essence, applies to vehicles with an inside rearview mirror. Because these vehicles do not have a rear window, they have no inside rearview mirror and, thus, are required by S6.1(b) to have passenger-side mirrors of unit magnification.

Ford believes that this noncompliance is inconsequential to motor vehicle safety, and therefore creates no unreasonable risk to highway safety for the following reasons:

I. The Original Agency Purpose for Restricting the Use of Convex Mirrors is No Longer Necessary

Twenty years ago, following several years of research into the safety benefit of convex mirrors, NHTSA amended FMVSS 111 to allow the use of convex passenger side mirrors on passenger cars, light trucks, and multipurpose passenger vehicles, to supplement an inside rearview mirror that does not meet the field of view requirements of S5.1.1. As stated in the agency's final rule comments, previous to the amendment there had been concerns regarding the effect of convex mirrors on depth perception because of drivers' unfamiliarity, at the time, with convex mirrors. Currently, with 20 years of experience with convex mirrors, drivers are very familiar with their function and are now very accustomed to the benefits of convex mirrors.

II. Studies Show a Safety Benefit Using Convex Mirrors

Ford Econoline Study

Ford conducted field of view studies with respect to flat and convex passenger side mirrors on affected Econoline Cargo Vans. Not surprisingly, these studies demonstrate the enhanced traffic detection provided with convex passenger side mirrors. The field of view maps [included with Ford's petition] show that convex passenger side mirrors provide a 19.5-degree field of view vs. a 5-degree field of view with flat mirrors. Passenger side mirror image comparisons of convex and planar mirrors [included with Ford's petition] illustrate the enhanced traffic detection provided by convex mirrors. With a convex passenger side mirror the driver will be able to detect a vehicle in the next lane even if the vehicle is as far forward as the passenger side window, while the driver of a vehicle with a flat passenger side mirror, as required by S6, cannot see the vehicle until it is almost 20 feet behind the vehicle.

NHTSA Study

In September 1985, NHTSA published report DOT HS 806 948, ''Field Test Evaluation of Rearview Mirror Systems for Commercial Vehicles,'' regarding a two-year evaluation of experimental rearview mirror systems which showed that commercial vehicles with a convex passenger side mirror had a 17.6% reduction in accidents over vehicles with OEM flat passenger side mirrors. The report concluded that the analysis strongly supported the installation of single convex passenger side mirrors on commercial vehicles.

III. No Evidence of Negative Safety Consequences With Convex Mirrors

Ford is not aware of any field or owner reports or allegations of accidents or injuries related to this condition. [Ford believes] that the increased rearward visibility using a convex mirror and the extensive use of convex mirrors in the field can result in a reduction of lane change and right hand turn accidents.

IV. Other Countries Safely Permit Convex Mirrors

As the agency is aware, convex passenger side rearview mirrors are allowed in Canada, Europe, Australia, and other countries including those vehicles without an interior rear view mirror. Below is a summary of relevant regulations in these countries:

Canadian Federal Motor Vehicle Safety Standard 111

Section (6)—An outside rear view mirror referred to in paragraph (7)(b) or subsection (26) or (27) that is installed on the side of the vehicle opposite the driver's may be convex if its reflective surface area is equal to or greater than the reflective surface area that a unit magnification mirror must have in accordance with that paragraph or subsection.

Subsection (26)(b) states that multipurpose passenger vehicles, trucks and buses, with a GVWR of 4,536 kg or less, other than school buses, shall have on each side of the vehicle, an outside rearview mirror which has not less than 125 cm of reflective surface area located so as to provide the driver with a view to the rear along both sides of the vehicle.

EEC Directive 71/127

Annex I Section 3.1 permits either flat or spherically convex rearview mirrors.

Annex II Section 2.1.2 requires Class II exterior mirrors if an interior rearview mirror does not provide any rearward vision.

Additionally, Section 2.1.4 requires a supplemental wide angle mirror if the Class II exterior rearview mirror is not convex.

Australian Design Rule 14/02

Section 14.2.3.2.2—Passenger side external rearview mirrors may be flat or convex.

Section 14.2.3.2.3—For convex mirrors, the reflective surface area is equal to or greater than that of a flat mirror required to meet the field of view requirements set out in S14.2.3.1.

Interested persons are invited to submit written data, views, and arguments on the application described above. Comments should refer to the docket and notice number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below. *Comment closing date:* May 30, 2003.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: April 17, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–10052 Filed 4–29–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before May 30, 2003.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (*See* Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW., Washington, DC 20590 or at *http://dms.dot.gov.*

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on April 25, 2003.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
13219–N	RSPA–03–14969	Solvay Interox, Inc. Houston, TX.	49 CFR 172.302(c), 173.31(d)(1)(vi).	To authorize the transportation in commerce of DOT specification tank cars containing Division 5.1 and 5.2 hazardous materials without removing the frangible disc. (mode 2)
13220–N	RSPA–03–14968	Advanced Technology Materials, Inc. (ATMI) Danbury, CT.	49 CFR 173.301, 173.302, 173.304, 173.315.	To authorize the transportation in commerce of non-DOT specification cylinders containing certain compressed gases absorbed onto a microporous substance and transported at sub-atmospheric pressure. (mode 1)
13221–N	RSPA–03–14967	ToxCo, Inc. Oak Ridge, TN.	49 CFR 173.211, 173.244.	To authorize the one-time, one-way transportation in commerce of solidified sodium metal in certain non-DOT specification non-bulk and bulk packages. (mode 1)
13222–N	RSPA–03–14971	Unilever Bestfoods Englewood Cliffs, NJ.	49 CFR 173.306(a), 173.306(a)(3)(v).	To authorize the manufacture, mark, sale and use of a non-DOT specification, non-refillable plastic aerosol container filled with compressed gas and a non-hazardous material. (modes 1, 2, 3, 4)
13225–N	RSPA–03–14996	Quantum Technologies Irvine, CA.	49 CFR 173.301(f), 173.302(a).	To authorize the transportation in commerce of hydrogen and compressed natural gas in non-DOT specification carbon filament wound reinforced polymer lined composite cylinders. (modes 1, 2, 3)

[FR Doc. 03–10698 Filed 4–29–03; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending March 31, 2003.

LNAME	FNAME	MNAME
Abbasi	Osama	Salman.
Altunis	Kenan	
Amriati	Anthony	John.
An	Young	Tae.
Arnold	Sandra	Gay.
Baitinger	Marc	Harry.
Bauza	Ae	H.
Beach	Doug	Marshall.
Bobelis	Charles	Kazys.
Boyd Thulin	Samuel	John.
Brugmans	Josephus	P.
Camille Pym	Laura	Elizabeth.
Carr-Harris	Marianna	Catherine.
Cha	Grace	
Chang	Tim	Chung-Tien.
Chang	Yvonne	Fung Oy.
Chew	Deborah	Anne.
Chui	Sai	Peng.
Dabringhausen	Peter	
Dagneau	Pierre	C.
de Grossmann	Pauline	Janette Holley.
De Naeyer	Tanguy	John Verhaeghe.
Del Valle	Javier	Ernesto.
Dognin	Bruno	
Dreyfuss	Catherine	Simonette.
Duffill Green	Hugh	Grant.
Edler	Karoline	
Egli	William	John.
Eskerud	Kristin	Chernus.
Franco	Juan	Carlos.
Franco	Miguel	Angel.
Gorman Chan	Ching	Jenny.
Hampton	Ramona	Alma.
Han	Ki	Song.
Hanlon	Charlotte	Jeane.
Hardin	Bert	Lee.
Haupt	Georg	Manfred.
Hays	Anthony	Davis.
Henry	Rosalba	Norma.
Ho	Alice	Hui-Ching.
Hoelsaether Jensen	Vicki	Joanne.
Humphries	Mary	Elizabeth.
Jack	Juliana	Marie.
Jenson	Cynthia	Hays.
Jo	Kyung	Sook.
Kelland	David	Grant.
Kim	Anne	H.
Kim	Anne	H.
Kleyboldt	Ilse	
Kochendoerfer-Doja	Belinda	Rose.
Kruse	Michael	Harold.
Kuklinski	Michael	Eugene.
Kusak	Albert	Anthony.
Lambert	Kurt	Anderson.
Lee	Sook	Ja.
Lee	Soo	Won.
Lee	Jin	Oah.
Limited	Ing Re	(Ireland).
Manila	Un-Suk	
Martin	Gary	Lowell.
Mayer	Diane	Carol.

LNAME	FNAME	MNAME
Mello	William	Deryck.
Meyer	Borghild	
Millar-Rueprecht	Elizabeth	Ann.
Min	Kyung	Ho.
Mitreska	Katerina	
Morris	James	Lee.
Nacson	Andes	
Nam	Gi	Yeong.
zNam	Yeong	Nam.
Ohmstedt	Susan	Elisabeth.
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Park	Kyungsook	Kim.
Peabody (aka Mary Genevieve Peabody)	Mary	Miller.
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Pederson	Laurie	Joyce.
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Wattles	Gurdon	Dunbar.
Wellesley O'Sullivan	Diana	Gay.
White	Erna	Elisabeth.
Wilson	Karalyn	Margaret Elizabeth.
Wuttke	Rene	

Dated: April 8, 2003.

Samuel Brown,

Team Manager, Examination Operation, Philadelphia Compliance Services.

[FR Doc. 03–10566 Filed 4–29–03; 8:45 am]

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Corrections

Federal Register

Vol. 68, No. 83

Wednesday, April 30, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for Coastal Storm Damage Reduction, Barrow, AK

Correction

In notice document 03–9467 beginning on page 18970 in the issue of Thursday, April 17, 2003, make the following correction:

On page 18971, in the first column, under the heading **FOR FURTHER INFORMATION CONTACT**, in the seventh line, ''*Lizette.P.Boyer@poa02.usacearmy.mil*'' should read, '' *Lizette.P.Boyer@poa02.usace.army.mil*''.

[FR Doc. C3–9467 Filed 4–29–03 8:45 am]

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LIST OF PUBLIC LAWS

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H.R. 1584/P.L. 108–19

Clean Diamond Trade Act (Apr. 25, 2003; 117 Stat. 631)

Last List April 28, 2003

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