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Presidential Documents

Title 3—

The President

Proclamation 7691 of July 18, 2003

Captive Nations Week, 2003

By the President of the United States of America

A Proclamation

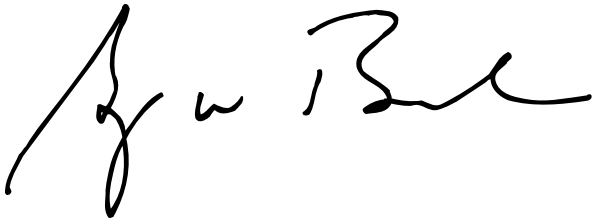
During Captive Nations Week, first declared in 1959 as a statement against the continuing Communist domination of Eastern Europe, America expresses its dedication to freedom and democracy. While many countries around the world uphold these principles, millions of people still live under regimes that violate their citizens' rights daily. In countries such as Burma and Iran, citizens lack the right to choose their government, speak out against oppression, and practice their religion freely. The despot who rules Cuba imprisons political opponents and crushes peaceful opposition, while in North Korea hundreds of thousands languish in prison camps and citizens suffer from malnutrition as the regime pursues weapons of mass destruction. Violence, corruption, and mismanagement reign in Zimbabwe and an authoritarian government in Belarus smothers political dissent.

Yet the cause of freedom is advancing. With the demise of the brutal regime of Saddam Hussein, the Iraqi people are no longer captives in their own country. Their freedom is evidence of the fall of one of the most oppressive dictators in history. Today, American and coalition forces are helping to restore civil order and provide critical humanitarian aid to the Iraqi people. Iraqis are now meeting openly and freely to discuss the future of their country. The United States vows to continue to work with those trying to bring about peaceful democratic change and greater respect for human rights.

The Congress, by Joint Resolution approved July 17, 1959, (73 Stat. 212), has authorized and requested the President to issue a proclamation designating the third week in July of each year as ''Captive Nations Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim July 20 through July 26, 2003, as Captive Nations Week. I call upon the people of the United States to observe this week with appropriate ceremonies and activities and to reaffirm their commitment to all those seeking liberty, justice, and self-determination.

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



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Rules and Regulations

Federal Register

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

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 400, 407 and 457

RIN 0563–AB85

General Administrative Regulations, Subpart J—Appeal Procedure and Subpart T—Federal Crop Insurance Reform, Insurance Implementation, Regulations for the 1999 and Subsequent Reinsurance Years; Group Risk Plan of Insurance Regulations for the 2001 and Succeeding Crop Years; and the Common Crop Insurance Regulations, Basic Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final regulations which were published Wednesday, June 25, 2003 (68 FR 37697–37726). The regulations pertain to the General Administrative Regulations, Subpart J—Appeal Procedure and Subpart T—Federal Crop Insurance Reform, Insurance Implementation, Regulations for the 1999 and Subsequent Reinsurance Years; Group Risk Plan of Insurance Regulations for the 2001 and Succeeding Crop Years; and the Common Crop Insurance Regulations, Basic Provisions.

EFFECTIVE DATE: June 18, 2003.

FOR FURTHER INFORMATION CONTACT: For further information contact Janice Nuckolls, Insurance Management Specialist, Research and Development, Product Development Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO, 64133–4676, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction implemented changes mandated by the Federal Crop Insurance Act, as amended by the Agricultural Risk Protection Act of 2000, and required an earlier notice of loss for prevented planting in response to an Office of Inspector General Audit.

Need for Correction

As published, the final regulations contained a typographical error which may prove to be misleading and is in need of correcting. Section 37(a) of the Common Crop Insurance Regulations, Basic Provisions contained a cite, ''section 8(b)(2)'', which should have been ''section 8(b)(1).''

Correction of Publication

■ Accordingly, the publication on Wednesday, June 25, 2003 of the final regulations at 68 FR 37697–37726 is corrected as follows:

PART 457—[CORRECTED]

§ 457.8 [Corrected]

■ On page 37726, in the second column, section 37(a) cites ''section 8(b)(2)'' which is corrected to read ''section 8(b)(1)''.

Signed in Washington, DC, on July 11, 2003.

Ross J. Davidson, Jr.,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 03–18720 filed 7–22–03; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1952 and 1956

Partial Withdrawal of Approval of the Virgin Islands State Plan; Resumption of Exclusive Federal Enforcement Authority in the Private Sector; and Conversion and Approval of the Virgin Islands State Plan to a State Plan for Public Employees Only

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: This action amends the Code of Federal Regulations (CFR) to reflect the withdrawal of approval by the Occupational Safety and Health Administration (OSHA) of the United States Virgin Islands' (the ''Virgin Islands'') comprehensive State plan covering both private and public sector employers and employees, and the conversion and approval of a public employee State plan, covering employers and employees of the Territory and its political subdivisions only. This action is taken as the result of unique structural and performance issues in the Virgin Islands and with mutual agreement. Federal OSHA will now exercise exclusive jurisdiction over all private sector employers and employees in the Virgin Islands. In addition to public employee coverage, the Territory will provide expanded on-site consultation services to the private sector in the U.S. Virgin Islands pursuant to a new cooperative agreement with OSHA as authorized by Section 21(d) of the Occupational Safety and Health Act.

EFFECTIVE DATE: July 23, 2003.

FOR FURTHER INFORMATION CONTACT: Barbara Bryant, Director, Office of State Programs, Directorate of Cooperative and State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3700, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 693–2200, Fax (202) 693–1671, E-mail: *Bryant.Barbara@dol.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Section 18 of the Occupational Safety and Health Act of 1970 (the OSH Act), 29 U.S.C. 667, provides the basis for States to assume responsibility for the development and enforcement of occupational safety and health standards by submitting to the Assistant Secretary of Labor for Occupational Safety and Health (''Assistant Secretary''), and obtaining Federal approval of, a State plan. Under regulations at 29 CFR part 1902 and 1956 respectively, there are two types of State plans which a State may operate: a comprehensive ''State plan'' covering both private and public (State, or Territory, and its political subdivisions) employees; or a ''State plan for public employees only.''

Section 3(7) of the OSH Act makes several U.S. Territories and possessions including the U.S. Virgin Islands eligible to submit State plans under Section 18. The United States Virgin Islands (''Virgin Islands'') State plan received initial approval for its comprehensive State plan on September 11, 1973 (38 FR 24896). A description of the plan and Federal OSHA approval was codified in the Code of Federal Regulations at 29 CFR part 1952, subpart S. The Virgin Islands Department of Labor, Division of Occupational Safety and Health (VIDOSH) was designated as the State agency with responsibility for administering the State plan, and operations under the plan commenced at the time of initial plan approval in 1973. The Virgin Islands State plan covered all issues of occupational safety in private and public sector workplaces located within the Virgin Islands. Although in the public sector the State plan covered occupational health as well as safety, in the private sector the State plan did not exercise enforcement authority over occupational health issues; enforcement of health standards and other health-related requirements in the Virgin Islands with regard to private sector employment remained a Federal OSHA responsibility.

The Virgin Islands State plan successfully completed all of its State plan developmental steps and was certified as structurally complete on September 22, 1981. Pursuant to Section 18(e) of the OSH Act and procedures at 29 CFR 1902, OSHA determined that the Virgin Islands program met all requirements and, in actual operation, was ''at least as effective'' as the Federal program, granted the Virgin Islands State plan final approval, and relinquished Federal enforcement authority effective April 17, 1984 (49 FR 16766). However, on November 13, 1995, OSHA announced that, as a result of its monitoring, it had found that the Virgin Islands State plan, was no longer ''at least as effective as'' Federal OSHA and that other 18(e) requirements were no longer being met. In response to this finding, the Virgin Islands Commissioner of Labor agreed to voluntarily relinquish the State plan's final approval status under Section 18(e), to the reassertion of concurrent Federal OSHA enforcement authority and jurisdiction, and to undertake necessary corrective action to regain final approval status (60 FR 56950).

The decision to reinstate concurrent jurisdiction in 1995 allowed Federal OSHA to exercise full discretionary concurrent enforcement authority to assure worker protection, while allowing the Virgin Islands time and assistance to improve its performance. However, since the agreement in 1995 the Virgin Islands has been unable to institute significant improvements to its staffing and operational performance. Federal OSHA monitoring of the State plan has not indicated sufficient improvements in the Territory's performance to alleviate the deficiencies identified at that time. This has made it necessary for OSHA to continue to provide Federal staffing and resources in recent years to assure an appropriate level of worker safety and health protection in workplaces in the Virgin Islands.

B. Partial Withdrawal of the Virgin Islands State Plan; Resumption of Exclusive Federal Enforcement Authority in the Private Sector

In a letter dated May 12, 2003, Governor Charles Turnbull of the United States Virgin Islands notified the Assistant Secretary of the decision of the Territory to formally withdraw that portion of its federally-approved occupational safety and health State plan which provides for occupational safety coverage of private sector employment, pursuant to 29 CFR 1955.3(b). This letter also notified the Assistant Secretary of the Virgin Islands' request that the OSHA-approved State plan be converted from a comprehensive State plan covering both private and public sector employees, as currently reflected in 29 CFR 1952, subpart S, to a public employee only State plan, as authorized by 29 CFR part 1956, covering employees of the Territory and its political subdivisions only. In addition, the Governor expressed the Territory's agreement to provide on-site consultation services to the private sector in the Virgin Islands pursuant to a cooperative agreement under section 21(d) of the OSH Act. (The Virgin Islands, up-to-now, has provided private sector consultation services under the auspices and funding of its State plan.) The Virgin Islands indicated such conversion would allow it to focus resources on increasing the protection provided to public sector employees, while at the same time providing increased safety and health assistance for small business employers and employees in the Territory with the additional Federal funding and assistance available through a Section 21(d) consultation agreement.

OSHA has conveyed to the Virgin Islands its agreement with the resolution set forth in the Governor's May 12 letter. This agreement resolves unique and long-standing issues regarding the status and funding of the Virgin Islands State plan, in a manner which recognizes Federal OSHA's ongoing responsibility to provide staffing and resources for private sector enforcement in the Virgin Islands, while assuring continued recognition and funding for the valuable public sector compliance and consultation activity provided by the Territory. The agreement makes it possible for OSHA to devote its resources to providing safety and health protection in Virgin Islands workplaces, rather than expending its resources in a possibly lengthy and complex proceeding under 29 CFR part 1955 to formally withdraw State plan approval. The agreement also allows the Virgin Islands to qualify for enhanced funding under a provision of the Omnibus Insular Areas Act of 1977 (48 U.S.C. Section 1469 (d)), which authorizes OSHA to waive the requirement for Territorial matching funds for grant amounts under $200,000.

Accordingly, OSHA is revising 29 CFR 1952 and 29 CFR part 1956 to reflect the Virgin Islands' decision to exclude private sector employment from coverage under the plan while retaining coverage of public sector employment, and to reflect the new status of the plan as one that applies to the public sector only. Pursuant to the Governor's May 12 letter, State plan coverage of all private sector employers and employees is terminated effective July 1, 2003; exclusive Federal OSHA jurisdiction over private sector employment in the Virgin Islands is resumed on the same date. In accordance with Section 18(f) of the OSH Act and 29 CFR part 1955.4, the Territory may retain jurisdiction in any case commenced prior to the July 1 voluntary termination of its private sector program in order to enforce standards under the plan. 29 CFR 1952, subpart S, which reflects the prior status of the Virgin Islands program as a comprehensive State plan, is being rescinded and reserved.

The Virgin Islands' decision to retain its existing State plan in the public sector is being implemented by adding a new subpart H to 29 CFR part 1956, which reflects the new status of the Virgin Islands plan as a public sector only plan. The new subpart codifies the Virgin Islands plan as a developmental plan under 29 CFR part 1956, as it will be necessary for the Territory to make certain adjustments to its public employee program structure and to revise its State plan document to reflect its new, more limited scope. The State plan already meets the majority of the criteria for public sector State plans in 29 CFR 1956.10 and the indices of effectiveness in 29 CFR part 1956.11.

However, to provide a procedure for documenting how it meets those requirements, the Virgin Islands has submitted a developmental schedule for making the necessary adjustments to the State plan to reflect its change in scope, including the amendment and/or revision of Territorial legislation to provide more explicit authority for the public employee program, State plan narrative, implementing regulations and administrative procedures including revisions to its standards adoption procedures, and the development of a public employee only consultation program, strategic plan, and poster.

The State plan action and associated reconfiguration of the Virgin Islands workplace safety and health program will also result in changes in the Federal funding arrangements. As the reduction in the size and administrative cost of its State plan will reduce its funding requirements, OSHA has determined that the provisions of the Omnibus Insular Areas Act of 1977 (48 U.S.C. Section 1469(d)) can now apply. This authorizes OSHA to waive the Territory's matching share requirement for Federal funding under $200,000. The Virgin Islands is appropriately amending its grant documents to reflect these changes in status and funding.

C. Waiver of Comment Period; Immediate Effective Date

OSHA finds that good cause exists for amending 29 CFR parts 1952 and 1956 to reflect the modification in coverage of the Virgin Islands State plan without an opportunity for public comment, and for making this rule effective immediately upon publication in the **Federal Register**. Today's action imposes no new rights or obligations on affected parties, since as discussed above, private sector workplaces in the Virgin Islands have been subject to enforcement of Federal OSHA safety requirements since 1995, and subject to Federal OSHA health requirements since the inception of the Virgin Islands State plan. (Federal OSHA and Virgin Islands safety and health standards and regulations are identical.) Public sector employers in the Virgin Islands are likewise unaffected, as they remain subject to the same requirements approved as part of the Territory's existing plan, which was approved after public notice and comment (38 FR 24896). Today's revisions to the 29 CFR parts 1952 and 1956 have no substantial effect on the rights or obligations of any member of the public, and are made only to update these basic public references to reflect the current coverage of the Virgin Islands State plan. Accordingly, OSHA finds that good cause exists for making these revisions without an opportunity for public comment, and for making them effective immediately upon publication in the **Federal Register**.

D. Decision

In accordance with the Governor's request and in order to assure the most effective protection possible to both private and public sector workers in the U.S. Virgin Islands, the withdrawal of the Virgin Islands' State plan in the private sector and its conversion to a public employee only State plan under 29 CFR 1956 is hereby approved. This decision incorporates the requirements of the OSH Act and of regulations applicable to State plans generally.

E. Effective Date of State Plan Conversion

The Virgin Islands State plan ceased inspections and other compliance activity in the private sector, except for previously initiated cases, and began operating as a public employee only State plan limiting its coverage to employees of the Territory and its political subdivisions on July 1, 2003.

F. Paperwork Reduction

This final rule contains no collections of information other than those already imposed by State plan regulations which have been previously reviewed and approved by the Office of Management and Budget (''OMB''), and assigned OMB control number 1218–0247 under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The OMB approval of these collections of information contained in these regulations expires November 30, 2005.

G. Regulatory Review

Regulatory Flexibility Act

OSHA certifies pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) that the approval of the withdrawal of the complete plan and conversion to a public employee only plan will not have a significant economic impact on a substantial number of small entities. This final rule applies only to the one Territorial agency operating an OSHA-approved State plan, and would not place small units of government under any new or different requirements, nor would any additional burden be placed upon the Territorial government beyond the responsibilities already assumed as part of the approved plan. By its own terms, the converted plan will have no effect on private sector employment, but is limited to the Territory and its political subdivisions. Moreover, a plan has been in effect in the Virgin Islands since 1973 and all public sector employers, including small units of local government, have been subject to its terms.

Unfunded Mandates Reform Act

The procedures in 29 CFR parts 1952, 1955 and 1956 for submission, initial approval and withdrawal of OSHA-approved State plans apply only to States and Territories which have voluntarily submitted a State plan for OSHA approval under the OSH Act, and accordingly these procedures do not meet the definition of a ''Federal intergovernmental mandate'' under section 421(5) of UMRA (2 U.S.C. 658(5)).

Federalism

Executive Order 13132, ''Federalism,'' (64 FR 43255; Aug. 4, 1999) establishes fundamental Federalism criteria to be applied in formulating and implementing Federal policies, and requires agencies to consult with affected State, Territorial and local officials in the development of regulatory policies. Although OSHA has determined that the requirements and consultation procedures provided in Executive Order 13132 are not applicable to plan approval decisions under the Act, which have no effect outside the particular State or Territory receiving approval, OSHA has reviewed this action and believes it is consistent with the principles and criteria set forth in the Executive Order. This rule was developed in coordination with representatives from the U.S. Virgin Islands, and opportunities for additional State input have been afforded through consultation with the Occupational Safety and Health State Plan Association (OSHSPA), the organization of State agencies which administer Federally-approved plans.

Executive Order

This final rule has been deemed not significant under Executive Order 12866.

List of Subjects in 29 CFR Parts 1952 and 1956

Administrative practice and procedure, Intergovernmental relations, Law enforcement, Occupational safety and health, Reporting and recordkeeping requirements.

Authority

This document was prepared under the direction of John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health. It is issued under Section 18 of the

Occupational Safety and Health Act of 1970 (29 U.S.C. 667), 29 CFR 1902, 1952, 1955, and 1956, and Secretary of Labor's Order 5–2002 (67 FR 65008, October 22, 2002).

Signed at Washington, DC this 16th day of July, 2003.

John L. Henshaw,

Assistant Secretary of Labor.

■ Accordingly, the 29 CFR Ch. XVII is amended as set forth below:

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

■ 1. The authority for 29 CFR part 1952 is revised to read as follows:

Authority: Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), 29 CFR part 1902 and 1955, and Secretary of Labor's Order 5–2002 (67 FR 65008, October 22, 2002).

■ 2. Subpart S of 29 CFR part 1952 is removed and reserved to read as follows:

Subpart S—[Removed and Reserved]

PART 1956—STATE PLANS FOR THE DEVELOPMENT AND ENFORCEMENT OF STATE STANDARDS APPLICABLE TO STATE AND LOCAL GOVERNMENT EMPLOYEES IN STATES WITHOUT APPROVED PRIVATE EMPLOYEE PLANS

■ 3. The authority for 29 CFR part 1956 is revised to read as follows:

Authority: Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), 29 CFR 1902, 1952, and 1955, and Secretary of Labor's Order 5–2002 (67 FR 65008, October 22, 2002).

■ 4. 29 CFR part 1956 is amended by adding a new subpart H to read as follows:

Subpart H—The Virgin Islands

Sec.
1956.70 Description of plan as approved.
1956.71 Developmental schedule.
1956.72 Changes to approved plan. [Reserved.]
1956.73 Determination of operational effectiveness. [Reserved.]
1956.74 Location of basic State plan documentation.

Subpart H—The Virgin Islands

§ 1956.70 Description of plan as approved.

(a) The Virgin Islands State plan was converted to a public employee only occupational safety and health program on July 1, 2003, and received initial approval on July 23, 2003. It is administered and enforced by the Virgin Islands Department of Labor, Division of Occupational Safety and Health (''the agency,'' or ''VIDOSH'') throughout the U.S. Virgin Islands (the ''Virgin Islands''). The Virgin Islands public employee program, established by Executive Order 200–76 on July 11, 1975, extends full authority under Virgin Islands Act No. 3421, Section 16 (April 27, 1973) and implementing regulations to the agency to enforce and administer all laws and rules protecting the safety and health of employees of the Government of the Virgin Islands, its departments, agencies and instrumentalities, including any political subdivisions. It covers all activities of public employers and employees and places of public employment. The Territory has adopted all Federal standards promulgated as of June 2003, and has given assurances that it will continue to adopt and update all Federal standards, revisions and amendments. The plan is accompanied by a statement of the Governor's support.

(b) The plan establishes procedures for variances and the protection of employees from hazards under a variance; insures inspection in response to complaints; provides employer and employee representatives an opportunity to accompany inspectors and to call attention to possible violations before, during, and after inspections; notification to employees or their representatives when no compliance action is taken as a result of alleged violations, including informal review; notification of employees of their protection; protection of employees against discharge or discrimination in terms and conditions of employment; includes provision for prompt notices to employers and employees of violations of standards and abatement requirements and either sanctions or alternative mechanisms to assure abatement; employer's right to appeal citations for violations, abatement periods and any proposed sanctions and/or compulsory process; employee's right to appeal abatement periods; and employee participation in review proceedings. Also included are provisions for right of entry for inspection, prohibition of advance notice of inspection and the requirement for both employers and employees to comply with the applicable rules, standards, and orders, and employer obligations to maintain records and provide reports as required. Further, the plan provides assurances of a fully trained adequate staff and sufficient funding, and for voluntary compliance programs, including a public sector consultation program.

Note: The Virgin Islands' received initial approval for a comprehensive State plan covering the private (safety only) and public sectors on September 11, 1973 (38 FR 24896) and final approval under Section 18(e) of the Act on April 17, 1984 (49 FR 16766). Final approval status for that State plan was suspended and full Federal concurrent enforcement authority was reinstated on November 13, 1995 (60 FR 56950). Effective July 1, 2003, the Virgin Islands withdrew the portion of its State plan which covered private sector employment, and exclusive Federal enforcement jurisdiction for the private sector resumed.

§ 1956.71 Developmental schedule.

The Virgin Islands State plan for public employees only is developmental. The following is a schedule of major developmental steps to be completed:

(a) The Virgin Islands will review and amend its legislation and regulations, as appropriate, to assure proper statutory authority for ''at least as effective'' coverage of all public sector employers and employees including Territorial government employers and employees and any employers or employees of municipalities or other local governmental entities. The plan will be revised to include a legal opinion that the converted plan meets the requirements of the Occupational Safety and Health Act of 1970 and is consistent with the laws of the Virgin Islands. These actions will occur within one year of plan conversion approval.

(b) The Virgin Islands will review and amend its legislation and regulations as necessary to reflect its more limited coverage and to be consistent with formal withdrawal of Federal approval of the private sector portion of the State plan, within one year of plan conversion approval.

(c) The Virgin Islands will review its statutory authority regarding standards adoption and take appropriate legislative or administrative action to assure that it is consistent with 29 CFR part 1953 and that all standards applicable to the public sector will be promulgated within six months of the promulgation date of new Federal OSHA standards, within one year of plan conversion approval.

(d) The Virgin Islands will take appropriate legislative or administrative action to assure effective sanctions, either as monetary penalties, or an alternative mechanism for compelling abatement in the public sector within one year of plan conversion approval.

(e) The Virgin Islands will develop a five-year strategic plan and corresponding annual performance plan within two years of plan conversion approval.

(f) A new State poster will be developed and distributed to reflect

coverage of the public sector only within one year of plan conversion approval.

(g) The Virgin Islands will submit a revised State plan, in electronic format to the extent possible, reflecting its coverage of public employers and employees only in accordance with 29 CFR 1956, within one year of plan conversion approval.

(h) The Virgin Islands will hire and provide appropriate training for their public sector compliance and consultation staffs, within one year of plan conversion approval.

(i) The Virgin Islands will develop a public sector consultation program within two years of plan conversion approval.

§ 1956.72 Changes to approved plan. [Reserved]

§ 1956.73 Determination of operational effectiveness. [Reserved]

§ 1956.74 Location of basic State plan documentation.

Copies of basic State plan documentation are maintained at the following locations. Specific documents are available upon request, and will be provided in electronic format, to the extent possible. Contact the: Directorate of Cooperative and State Programs, Office of State Programs, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N–3700, Washington, DC 20210; Office of the Regional Administrator, U.S. Department of Labor, Occupational Safety and Health Administration, 201 Varick Street, Room 670, New York, New York 10014; and the Virgin Islands Department of Labor, Division of Occupational Safety and Health, 3021 Golden Rock, Christiansted, St. Croix, Virgin Islands, 00840. Current contact information for these offices (including telephone numbers, mailing and e-mail addresses) is available on OSHA's Web site, *http://www.osha.gov.*

[FR Doc. 03–18719 Filed 7–22–03; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 701

[Secretary of the Navy Instruction 5211.5]

Privacy Act; Implementation

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is revising the exemption rule for N05520–5, entitled ''Personnel Security Program Management Records System''. The revision includes deleting the (k)(1) exemption because it is redundant to 32 CFR 701.117; and claiming subsections (c)(3) and (e)(1) under the (k)(5) exemption. The principal purpose of the (k)(5) exemption is to protect the identity of a confidential source. The expansion is considered supportive, and in furtherance, of the overall purpose of the exemption.

EFFECTIVE DATE: July 8, 2003.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The proposed rule was published on May 9, 2003, at 68 FR 24904. No comments were received, therefore, the rule, as changed, is being adopted as final.

Executive Order 12866. It has been determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act. It has been determined that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

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

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''. It has been determined that this Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, ''Federalism''. It has been determined that this Privacy Act rule for the Department of Defense does not have federalism implications. The rule 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.

List of Subjects in 32 CFR Part 701

Privacy.

■ Accordingly, 32 CFR part 701 is amended to read as follows:

PART 701—AVAILABILITY OF DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC

■ 1. The authority citation for 32 CFR part 701, Subpart F continues to read as follows:

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

■ 2. Section 701.118, paragraph (n) is revised to read as follows:

§ 701.118 Exemptions for specific Navy record systems.

* * * * *

(n) *System identifier and name:*

(1) *N05520–5, Personnel Security Program Management Records System.*

(2) *Exemption:* (i) Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(ii) Therefore, portions of this system may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), and (e)(1).

(3) *Authority:* 5 U.S.C. 552a(k)(5).

(4) *Reasons:* (i) From subsection (c)(3) and (d) when access to accounting disclosures and access to or amendment of records would cause the identity of a confidential sources to be revealed. Disclosure of the source's identity not only will result in the Department breaching the promise of confidentiality made to the source but it will impair the Department's future ability to compile investigatory material for the purpose of determining suitability, eligibility, or

qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources can be assured that a promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(ii) From (e)(1) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. In some cases, it is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision-making by the Department when making required suitability, eligibility, and qualification determinations.

* * * * *

Dated: July 16, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–18649 Filed 7–22–03; 8:45 am]

BILLING CODE 5001–08–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ62–262, FRL–7535–4]

Approval and Promulgation of Implementation Plans; New Jersey; Revised Motor Vehicle Emissions Inventories for 1996, 2005, and 2007 and Motor Vehicle Emissions Budgets for 2005 and 2007 Using MOBILE6

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the New Jersey State Implementation Plan (SIP) for the attainment and maintenance of the 1-hour national ambient air quality standard (NAAQS) for ozone. Specifically, EPA is approving New Jersey's: revised 1996, 2005, and 2007 motor vehicle emission inventories and 2005 and 2007 motor vehicle emissions budgets recalculated using MOBILE6; modified date for submittal of the State's mid-course review; and updated general conformity emissions budgets for McGuire Air Force Base. The intended effect of this action is to approve a SIP revision that will help the State continue to plan for attainment of the 1-hour NAAQS for ozone in the New York-Northern New Jersey-Long Island nonattainment area (NAA) and the Philadelphia-Wilmington-Trenton NAA.

EFFECTIVE DATE: This rule will be effective August 22, 2003.

ADDRESSES: Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours:

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

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW., Washington, DC 20460.

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

FOR FURTHER INFORMATION CONTACT: Michael Moltzen, Air Programs Branch, 290 Broadway, 25th Floor, New York, NY 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

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I. Background

On May 5, 2003 (68 FR 23662), EPA published a notice of proposed rulemaking regarding a SIP revision submitted by the State of New Jersey for its portions of the two severe ozone NAAs—the New York-Northern New Jersey-Long Island Area and the Philadelphia-Wilmington-Trenton Area. For purposes of this action, these areas will be referred to as the Northern New Jersey NAA and the Trenton NAA, respectively. That notice proposed to approve New Jersey's revised 1996, 2005, and 2007 motor vehicle emission inventories and 2005 and 2007 motor vehicle emissions ''budgets'' recalculated using MOBILE6, modified date for submittal of the State's mid-course review, and updated general conformity emissions budgets for McGuire Air Force Base.

The SIP revision was proposed under a procedure called parallel processing, whereby EPA proposes a rulemaking action concurrently with a state's procedures for amending its regulations. The proposed SIP revision was initially submitted to EPA on January 31, 2003, and the final SIP revision was formally submitted on April 8, 2003. New Jersey also submitted additional information in a letter dated June 26, 2003 to supplement the April 8, 2003 SIP revision. A detailed description of New Jersey's submittal and EPA's rationale for the proposed action were presented in the May 5, 2003 notice of proposed rulemaking and will not be restated here. In response to EPA's proposed action on this New Jersey SIP revision, no comments were received.

II. What Are the Details of EPA's Specific Actions?

A. Emission Inventories Revised with MOBILE6

New Jersey's April 8, 2003 SIP revision contained revised 1996, 2005, and 2007 motor vehicle emissions inventories recalculated with the MOBILE6 motor vehicle emissions factor model. Consistent with EPA's policy regarding the use of MOBILE6 in SIP development in its ''Policy Guidance on the Use of MOBILE6 for SIP Development and Transportation Conformity'' and ''Clarification of Policy Guidance for MOBILE6 in Mid-course Review Areas'', New Jersey included in the April 8, 2003 submittal a relative reduction comparison to show that its 1-Hour Ozone Attainment Demonstration SIP continues to demonstrate attainment using revised MOBILE6 inventories for the Northern New Jersey NAA and the Trenton NAA. The State's methodology for the relative reduction comparison consisted of comparing the new MOBILE6 inventories with the previously approved on February 4, 2002 (67 FR 5152) MOBILE5 inventories for the Northern New Jersey NAA and the Trenton NAA to determine if attainment will still be predicted by the established attainment dates. Specifically, the State calculated the relative reductions (expressed as percent reductions) in ozone precursors between the 1996 base year and attainment year inventory, both MOBILE5-based. These percent reductions were then compared to the percent reductions between the revised MOBILE6-based 1996 base year and attainment year inventories.

To further support the relative reduction comparison submitted in the April 8, 2003 submittal, New Jersey performed a supplemental analysis, submitted as an addendum on June 26, 2003, which estimated the change in emission factors in going from MOBILE5

to MOBILE6 for 1990 and the attainment years of 2005 and 2007 for the Trenton NAA and Northern New Jersey NAA, respectively. This supplemental analysis shows that the percent reduction calculated with MOBILE6 is greater than the percent reduction calculated with MOBILE5, thus the required emission reductions needed to attain the 1-hour ozone NAAQS are achieved, and the SIP continues to demonstrate attainment.

New Jersey's submittal satisfies the conditions outlined in EPA's MOBILE6 Policy guidance, and demonstrates that the new levels of motor vehicle emissions calculated using MOBILE6 continue to support achievement of the projected attainment of the 1-Hour Ozone NAAQS by the attainment dates of 2007 for the Northern New Jersey NAA and 2005 for the Trenton NAA. Table 1 below summarizes the revised Reasonable Further Progress (RFP) and attainment year motor vehicle emissions inventories statewide and by nonattainment area in tons per summer day (tpd). EPA is approving these revised motor vehicle emissions inventories as part of New Jersey's SIP.

TABLE 1.—NEW JERSEY'S REVISED MOTOR VEHICLE EMISSIONS INVENTORIES

NAA area	2005			NO_X (tpd)
	VOC (tpd)	NO_X (tpd)	VOC (tpd)	
Atlantic City	14.63	22.07	(1)	(1)
Northern New Jersey	156.37	237.17	134.00	186.93
Trenton	50.48	77.72	(1)	(1)
Allentown	5.59	12.89	4.77	10.25
State total	227.08	349.85	(1)	(1)

[1] Not applicable.

B. Motor Vehicle Emissions Budgets Revised With MOBILE6

New Jersey's April 8, 2003 SIP revision contained revised motor vehicle emissions budgets recalculated using MOBILE6. For the South Jersey Transportation Planning Organization (SJTPO) and Delaware Valley Regional Planning Commission (DVRPC) the 2005 budgets are revised attainment year budgets. For the North Jersey Transportation Planning Authority (NJTPA) the 2005 budgets are revised budgets based on the RFP Plans, while the 2007 budgets are revised attainment year budgets. On June 2, 2003 (68 FR 32749), EPA found the revised attainment year budgets adequate for transportation conformity purposes. EPA is approving all of these budgets as part of New Jersey's SIP. Table 2 below summarizes New Jersey's revised budgets contained in the April 8, 2003 submittal.

TABLE 2.—NEW JERSEY MOTOR VEHICLE EMISSIONS BUDGETS

Transportation planning area	2005		2007	
	VOC (tpd)	NO_X (tpd)	VOC (tpd)	NO_X (tpd)
North Jersey Transportation Planning Authority (NJTPA)	161.97	250.05	138.77	197.19
South Jersey Transportation Planning Organization (SJTPO)	22.12	36.36	(1)	(1)
Delaware Valley Regional Planning Commission (DVRPC)	42.99	63.44	(1)	(1)

(1) Not applicable, since the attainment year is 2005.

C. Revised General Conformity Budgets

New Jersey's April 8, 2003 SIP revision contained updated general conformity budgets for the McGuire Air Force Base, which replace the previous budgets approved by EPA on February 4, 2002 (67 FR 5152). Specifically, New Jersey is increasing the 2005 NO_X budget and decreasing the 2005 VOC budget consistent with EPA's policy on substitution of ozone precursor emission reductions. Table 3 below summarizes the revised general conformity budgets. EPA is approving the revised 2005 general conformity emissions budgets.

TABLE 3.—MCGUIRE AIR FORCE BASE GENERAL CONFORMITY EMISSIONS BUDGETS

	Previously approved budgets		New budgets	
	VOC Tons/year	NO_X Tons/year	VOC Tons/year	NO_X Tons/year
1990 Baseline	1,112	1,038	1,112	1,038
1996	1,186	1,107	1,186	1,107
1999	1,223	1,142	1,223	1,142
2002	1,405	875	1,405	875
*2005	1,406	884	1,198	1,084

*2005 budgets updated such that the increase in NO_X is offset by a decrease in VOC, resulting in no expected net increase in ozone formation.

D. Modified Date for Submittal of the Mid-Course Review

New Jersey's April 8, 2003 SIP revision contained a modified date for submittal of the State's mid-course review. As approved into New Jersey's SIP on February 4, 2002 (67 FR 5152), the State originally committed to submit its mid-course review analysis to EPA by December 31, 2003. However, EPA allowed states to revise their mid-course commitments to provide for the review no later than December 31, 2004 in order to include the benefit of the Regional NO_X Program in its mid-course review and to be consistent with surrounding states. Therefore, New Jersey revised its commitment to perform a mid-course review to December 31, 2004. EPA is approving this revised commitment.

III. Conclusions

EPA is taking final action to approve New Jersey's April 8, 2003 SIP revision. This submittal revises New Jersey's 1996, 2005, and 2007 motor vehicle emission inventories and 2005 and 2007 motor vehicle emissions budgets using MOBILE6, modifies the planned date to complete the State's mid-course review to December 31, 2004, and updates the general conformity emissions budgets for McGuire Air Force Base. In accordance with the parallel processing procedures, EPA has evaluated New Jersey's final SIP revision submitted on April 8, 2003 and supplemental information submitted on June 26, 2003, and finds that no substantial changes were made from the proposed SIP revision submitted on January 31, 2003. New Jersey has demonstrated that its revised 1-Hour Attainment Demonstration SIP for the Northern New Jersey NAA and the Trenton NAA continues to demonstrate attainment with the revised MOBILE6 inventories.

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 (Public Law 104–4).

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 10, 2003.

Jane M. Kenny,

Regional Administrator, Region 2.

■ 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 FF—New Jersey

■ 2. Section 52.1582 is amended by removing and reserving paragraphs (d)(4) and (h)(5), removing paragraphs (h)(7)(iii) and (h)(7)(iv) and adding paragraph (i) to read as follows:

§ 52.1582 Control strategy and regulations: Ozone.

* * * * *

(i)(1) The revised 1996, 2005 and 2007 motor vehicle emission inventories calculated using MOBILE6 included in New Jersey's April 8, 2003 State Implementation Plan revision is approved.

(2) The 2005 conformity emission budgets for the New Jersey portion of the Philadelphia/Wilmington/Trenton nonattainment area and the 2005 and 2007 conformity emission budgets for the New Jersey portion of the New York/Northern New Jersey/Long Island nonattainment area included in New Jersey's April 8, 2003 State Implementation Plan revision are approved.

(3) The conformity emission budgets for the McGuire Air Force Base included in New Jersey's April 8, 2003 State

Implementation Plan revision have been approved.

(4) The revised commitment to perform a mid-course review and submit the results by December 31, 2004 included in the April 8, 2003 SIP revision is approved.

[FR Doc. 03–18853 Filed 7–22–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2003–0242; FRL–7317–5]

Thiophanate Methyl; Pesticide Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of thiophanate methyl and its metabolite methyl 2-benzimidazoyl carbamate (MBC) in or on fruiting vegetables. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on fruiting vegetables. This regulation establishes a maximum permissible level for residues of thiophanate methyl in this food commodity. The tolerance will expire and is revoked on December 31, 2005.

DATES: This regulation is effective July 23, 2003. Objections and requests for hearings, identified by docket ID number OPP–2003–0242, must be received on or before September 22, 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 VII. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Andrea Conrath, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9356; e-mail address: *conrath.andrea@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop producers (NAICS 111)
- Animal producers (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–2003–0242. 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

EPA, on its own initiative, in accordance with sections 408(e) and 408 (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for residues of the fungicide thiophanate methyl and its metabolite methyl 2-benzimidazoyl carbamate, in or on vegetables, fruiting, group 8 at 0.5 parts per million (ppm). This tolerance will expire and is revoked on December 31, 2005. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

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

Section 408(b)(2)(A)(i) of 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. . . .''

Section 18 of the FIFRA authorizes EPA to exempt any Federal or State Agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act of 1996 (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemptions for Thiophanate Methyl on Fruiting Vegetables and FFDCA Tolerances

Benomyl has historically been used to control the disease caused by *sclerotinia sclerotiorum*, more commonly known as white mold, timber rot, or sclerotinia stem rot, in fruiting vegetables, including tomatoes. The recent cancellation of benomyl has left fruiting vegetable producers in Florida, and tomato producers in New Jersey and Virginia without sufficient means to control this disease, and the applicants claim that there are no other registered fungicides or alternative control practices which are effective to control this disease. Thiophanate methyl is related to benomyl, and degrades to the same active compound as benomyl. Field trial data also shows thiophanate methyl to be significantly effective at controlling white mold. It is expected that a similar level of control would be achieved with thiophanate methyl as that achieved in the past with benomyl. Significant economic losses are expected without the requested use of thiophanate methyl. EPA has authorized under FIFRA section 18 the use of thiophanate methyl on fruiting vegetables in Florida, and tomatoes only in New Jersey and Virginia, for control of white mold, also known as timber rot, or sclerotinia stem rot (*sclerotinia sclerotiorum*). After having reviewed the submissions, EPA concurs that emergency conditions exist for these States.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of thiophanate methyl in or on fruiting vegetables. In doing so, EPA considered the safety standard in section 408(b)(2) of the FFDCA, and EPA decided that the necessary tolerance under section 408(l)(6) of the FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6) of the FFDCA. Although this tolerance will expire and is revoked on December 31, 2005, under section 408(l)(5) of the FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on fruiting vegetables after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

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

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 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).

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 thiophanate methyl and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for a time-limited tolerance for residues of thiophanate methyl in or on fruiting vegetables at 0.5 ppm.

The most recent estimated aggregate risks resulting from the use of thiophanate methyl, are discussed in the **Federal Register** ofAugust 28, 2002 (67 FR 55137) (FRL–7192–1), final rule establishing tolerances for residues of thiophanate methyl in/on grapes, pears, potatoes, canola, and pistachios. In that prior action, risk was estimated assuming tolerance level residues in all commodities for established and proposed tolerances. Available residue data indicate that the use pattern for these emergency exemptions will not result in residues of thiophanate methyl in fruiting vegetables over 0.5 ppm. Therefore, a tolerance is being established for this crop group at this level. The risk assessment related to incremental addition of these items at this level to dietary exposure is discussed below. Refer also to the August 28, 2002 **Federal Register** document for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies in part upon that risk assessment and the findings made in the **Federal Register** document in support of this action. Below is a brief summary of the aggregate risk assessment.

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. A summary of the toxicological dose and endpoints for thiophanate methyl for use in human risk assessment is discussed in the final rule published in the **Federal Register** of August 28, 2002 (67 FR 55137) (FRL–7192–1). For thiophanate methyl, the Agency recently modified the tolerance expression, so that the residues to be regulated in plant and animal commodities for purposes of tolerance enforcement will consist of the residues of thiophanate methyl and its metabolite methyl 2-benzimidazolyl carbamate, expressed as thiophanate methyl.

Exposure from the use of benomyl, another pesticide which degrades under environmental conditions to MBC was not included in this assessment because the only basic registrant of benomyl requested voluntary cancellation of all benomyl-containing products in April 2001. Product cancellations were effective in early 2001 with sales and distribution of benomyl containing

products ending by December 31, 2001. However, the Agency conducted a dietary assessment using United States Department of Agriculture (USDA) Pesticide Data Program (PDP) monitoring data for benomyl, measured as MBC to estimate residues of thiophanate methyl because MBC is a common metabolite of both benomyl and thiophanate methyl. PDP data were available for apples, bananas, beans, cucurbits, peaches and strawberries. The PDP analytical method employs a hydrolysis step that converts any benomyl present to MBC. MBC is then quantitated and corrected for molecular weight, and results are measured as the sum of benomyl and MBC. Therefore, using MBC data to estimate thiophanate methyl residues may be a conservative approach in that it may overestimate thiophanate methyl residues.

Monitoring data on benomyl from the PDP were used to estimate dietary exposure to MBC, for apples, apple juice, bananas, succulent beans, cantaloupes, cucumbers, peaches, strawberries, citrus, and fruiting vegetables.

EPA assessed risk scenarios for thiophanate methyl under acute, chronic, and short-term and intermediate-term exposures. Risk estimates were calculated for the residues of toxicological concern, the parent compound thiophanate methyl, and its metabolites methyl 2-benzimidazolyl carbamate plus 2-amine-1-H-benzimidazole (MBC+2-AB).

To update the previous risk assessment, thiophanate-methyl acute and chronic dietary exposure assessments were conducted using the most current version of 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 Surveys of Food Intakes by Individuals (CSFII), 1994–1996/98. The 1998 CSFII survey focused on children from birth to 9 years old and greatly expanded (by several fold) the number of children aged birth to 4 years. Importantly, the supplemental survey was designed in a manner such that the results from the 1998 CSFII survey could be combined with the 1994–96 survey. The data in this newer CSFII survey (termed the 1994–1996/98 CSFII) are based on the reported consumption of more than 20,000 individuals over two non-consecutive survey days and is considered to be a more appropriate and more robust data set than the 1989–91 CSFII survey, which was used in the previous assessment.

The most current version of DEEM™-FCID was used for all dietary risk estimates calculated, and existing uses, as well as the proposed section 18 uses (blackberries, tomatoes and fruiting vegetables) were included. When calculating risk estimates from MBC+2-AB, an FQPA safety factor of 10 was applied for all infant and children population subgroups. Percent of crop treated information was also incorporated for most established uses and for all of the section 18 uses.

The acute and chronic dietary risk estimates for thiophanate methyl were <100% of the acute and chronic Population Adjusted Doses (aPAD and cPAD) at the 99.9th exposure percentile for the general U.S. population and all population subgroups. The acute and chronic dietary risk estimates for MBC +2-AB were also <100% of the aPAD and cPAD at the 99.9th exposure percentile for the general U.S. population and all population subgroups. EPA generally has no concern for exposures below 100% of the PADs, because the PADs represent the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. The most highly exposed subgroup for all risk estimates calculated was children 1–2 years.

Table 1 summarizes the percentages of aPADs and cPADs for all scenarios for the overall U.S. population and for the most highly exposed population subgroup (children 1–2 years).

TABLE 1.—ACUTE AND CHRONIC DIETARY RISK ESTIMATES FOR THIOPHANATE METHYL EXISTING AND PROPOSED USES

Population Subgroup	aPAD Utilized		cPAD Utilized	
	TM	MBC +2-AB	TM	MBC +2-AB
U.S. population	6%	2%	<1%	<1%
Children (1–2 years)	22%	58%	2%	10%

The acute drinking water assessment, based on simultaneous dietary exposure to both MBC and thiophanate methyl (which was converted to MBC equivalents) resulted in Drinking Water Levels of Comparison (DWLOCs) for the overall U.S. population of 5,833 parts per billion (ppb), and for children (1–2 years) of 72 ppb (the population subgroup with the lowest DWLOC). All acute DWLOCs were well above the acute Estimated Environmental Concentrations (EECs) for ground water and surface water, at 3 and 44 ppb, respectively

The chronic drinking water assessment, based on simultaneous dietary exposure to both MBC and thiophanate methyl (which was converted to MBC equivalents) resulted in chronic DWLOCs for the overall U.S. population of 870 ppb, and for children (1–2 years) of 22 ppb (the population subgroup with the lowest DWLOC). All chronic DWLOCs were well above the chronic EEC for ground water of 3 ppb. The chronic DWLOCs were also above the chronic EEC for surface water of 23–24 ppb, except for that of the most highly exposed subgroup, children (1–2 years), which is slightly below the EEC with a chronic DWLOC of 22 ppb. However, given the conservative nature of the screening-level approach to estimated drinking water risks, and the equivalent levels of the chronic DWLOC and EEC (22–23–24 ppb), the Agency does not believe this represents a significant risk or concern for chronic aggregate exposures.

Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Thiophanate methyl and MBC are currently registered for uses 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 thiophanate methyl and MBC.

All residential exposures are considered to be short-term. The Margins of Exposure (MOEs) (converted to MBC equivalents) for aggregate short-term exposure to thiophanate methyl are as follows: Oral exposure of children (1–6 years) is 670; dermal exposure of children (1–6 years) is 1,000; and

dermal exposure of females (13–50 years) is 1,315. Prior to the application rate change agreed to by the registrants in connection with the Agency's reregistration process evaluation of thiophanate methyl, MOEs for aggregate exposure to MBC from the use of MBC as an in-can paint preservative were 670 for dermal exposure and 770 for exposure via inhalation. As a result of negotiated mitigation measures related to the reregistration review of this chemical, the registrant has now lowered the application rate for the in-can paint uses to the extent that the MOEs are now acceptable (>1,000). The MOEs (converted to MBC equivalents) for the total thiophanate methyl and MBC aggregate exposure are as follows: 630 for oral and dermal exposure of children (1–6 years); 770 for exposure via inhalation for females (13–50 years); and 620 for oral and dermal exposure for females (13–50 years). The aggregate short-term exposure to MBC and thiophanate methyl resulting from food, water and residential use exceeds the Agency's level of concern for children (infants, and 1–6 years), and females 13–50 years, due primarily to post-application exposures on turf. Registrants are performing a hand press study and have submitted a 5–day inhalation study to help refine this assessment. Based on these mitigation measures, and the conservative method of exposure estimation, the risks do not exceed the Agency's level of concern.

Aggregate cancer risk for U.S. population. The total thiophanate methyl and MBC+2-AB dietary cancer risk is 1.1×10^{-6} for existing and proposed new uses (incorporating the refinements and amortizations as previously described). The cancer risk from non-occupational residential exposure is 1.1×10^{-6}. Therefore, aggregate cancer risk is 2.2×10^{-6}. This risk estimate includes cancer risk from both thiophanate methyl and MBC+2-AB on food including all pending uses and section 18 uses, thiophanate methyl exposure from treating ornamentals, thiophanate methyl exposure from performing post-application lawn activities, and exposure from applying paint containing MBC. This is considered to be a high-end risk scenario since it is not expected that someone would treat ornamentals, perform high exposure post-application activities, and apply paint containing MBC every year for 70 years. Therefore, this estimate is considered to be a conservative estimate. Additionally, the cancer risk estimate for drinking water is based on the highest EEC, which is also a very high-end risk estimate since it is based on the maximum rate being applied every season for 70 years. The risk estimate calculations also assumed that the modeled surface water EEC is equivalent to concentrations in finished drinking water. Thus, food plus water plus non-occupational residential cancer risk is 2.2×10^{-6} which is within the range considered as negligible. Therefore, the risks do not exceed the Agency's level of concern.

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 thiophanate methyl and MBC+2-AB residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology 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

The Codex Alimentarius Commission has established maximum residue limits (MRLs) for thiophanate methyl residues in/on various plant and animal commodities. Codex MRLs for thiophanate methyl are currently expressed as MBC. The Codex MRL residue definition and the U.S. tolerance definition, previously expressed as only thiophanate methyl, have been incompatible and will remain incompatible even with the recent revision of the U.S. tolerance definition, since the revised tolerance definition includes both thiophanate methyl and MBC. Additionally, there is a 5.0 ppm Codex MRL for thiophanate methyl on tomatoes. The 0.5 ppm tolerance for fruiting vegetables, including tomatoes, being established by this document will not harmonize with Codex.

C. Conditions

The pesticide, thiophanate methyl may be applied using ground equipment, at a rate of 1 lb. of formulated product (0.7 lb. active ingredient (a.i.)) per acre, not to exceed 4 lbs. (2.8 lbs. a.i.) per acre per crop. A maximum of four applications per crop may be made at 7 to 14 day intervals, and a 2–day pre-harvest interval must be observed. Applications may not be made through any type of irrigation system.

VI. Conclusion

Therefore, the tolerance is established for residues of thiophanate methyl and its metabolite, MBC, expressed as thiophanate methyl, in or on vegetables, fruiting, group 8 at 0.5 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA, 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–2003–0242 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 September 22, 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 VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by the docket ID number OPP–2003–0242, 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).

VIII. Statutory and Executive Order Reviews

This final rule establishes a time-limited tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under section 408 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.

IX. 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: July 10, 2003.

Deborah McCall,

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 180.371 is amended by alphabetically adding the following commodity to the table in paragraph (b) to read as follows:

§ 180.371 Thiophanate methyl; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
* * * * * * *		
Vegetable, fruiting, group 8	0.5	12/31/05

* * * * *

[FR Doc. 03–18499 Filed 7–22–03; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[USCG–2002–12840]

RIN 1625–AA74 (Formerly 2115–AG46)

Basic Rates and Charges on Lake Erie and the Navigable Waters From Southwest Shoal to Port Huron, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; change of effective period.

SUMMARY: The Coast Guard is extending the effective period for the temporary final rule on basic rates and charges on Lake Erie and the navigable waters from Southwest Shoal to Port Huron, MI (District Two, Area 5), to December 24, 2003. Extension of the effective period ensures that the pilotage rates in District Two, Area 5, remain at the current rate while the Coast Guard completes its pending ratemaking project.

DATES: Effective July 18, 2003, § 401.407(b), suspended at 67 FR 47466, July 19, 2002, effective July 19, 2002, until July 21, 2003, will continue to be suspended through December 24, 2003; and § 401.407(c), temporarily added at 67 FR 47466, July 19, 2002, effective July 19, 2002, until July 21, 2003, will continue to be extended through December 24, 2003.

ADDRESSES: The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Tom Lawler, Project Manager, Office of Great Lakes Pilotage, Coast Guard, Commandant (G–MW–1), at 202–267–1241. If you have questions on viewing to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, at 202–366–5149.

SUPPLEMENTARY INFORMATION:

Regulatory History

On July 19, 2002, we published a temporary final rule entitled ''Basic Rates and Charges on Lake Erie and the Navigable Waters From Southeast Shoal to Port Huron, MI'' in the **Federal Register** [67 FR 47464].

Background and Purpose

On July 12, 2001, the Coast Guard published a final rule in the **Federal Register** [66 FR 36484] amending the ratemaking for the Great Lakes Pilotage. The new rates became effective August 13, 2001. Those rates were challenged in District Court by the Lake Pilots Association, representing the pilots in District Two. While preparing our defense, we discovered that we had inadvertently accounted for delay and detention hours in District Two differently from how we had in Districts One and Three. We also noticed minor errors in computing the rates in District Two. The Coast Guard has recently completed a study that addresses, among other things, the issue of how we should count hours of delay and detention when computing bridge-hours in all three Districts. Also the Coast Guard is currently in the process of adjusting the pilotage rates in all three Districts. *See* [USCG–2002–11288].

Discussion of Temporary Rule

We did not publish a notice of proposed rulemaking (NPRM) in order to extend this temporary final rule, and it takes effect immediately. Delay in implementing this rule would be contrary to the public interest. This rulemaking will maintain the status quo allowing litigation and associated rulemaking to be completed.

While not agreeing with the allegations contained in the complaint of the Lakes Pilots' Association, for the

reasons stated, the Coast Guard agreed to the relief sought in the lawsuit and temporarily restored the rates that were effective in Area 5 before August 13, 2001. The Coast Guard believes that this measure was in the best interest of the public, and mitigated the effects, if any, of the Coast Guard's disparate treatment of the pilots in District Two, when accounting for hours of delay and detention. These reasons remain just as valid today as they were when the temporary final rule was first published. The Coast Guard sees no benefit to restoring the 2001 rates in Area 5. Therefore, the Coast Guard finds under 5 U.S.C. 553(b)(B) and (d)(3), respectively, that neither notice-and-comment rulemaking nor 30 days' notice of effective date is required.

After the Coast Guard took this action, the District Court issued its ruling in the Lake Pilots Association lawsuit granting partial summary judgment for each side. The Court's decision was made considering a number of factors, including the Coast Guard's action with regard to the pilotage rates in Area 5. The Lake Pilots Association has appealed the District Court decision. Maintaining the current rates in Area 5 while the appeal is pending will facilitate the appellate process.

In addition, the Coast Guard has proposed new pilotage rates for all three Districts, including Area 5 of District Two. Maintaining the current Area 5 rates while that ratemaking project is completed will enable the Coast Guard to devote its scarce resources to establishing new rates for all areas, rather than engaging in a separate rulemaking just for Area 5. We will therefore continue to devote our energy to promulgating an interim rule and/or final rule updating the pilotage rates on the Great Lakes rather than start a separate rulemaking for Area 5.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has been reviewed by the Office of Management and Budget under that Order. It is not ''significant'' under the regulatory policies and procedures of Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Assessment under the regulatory policies and procedures of the DHS is unnecessary; however, a Regulatory Assessment has been prepared and may be viewed in the docket for this project.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule was not preceded by an NPRM and therefore is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impact on small entities.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This temporary final rule calls for no new collection of information under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501–3520].

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not

likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this temporary final rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) [42 U.S.C. 4321–4370f], and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(a), of the Instruction, from further environmental documentation. An ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are available in the docket where indicated under the section of this preamble on ''Public Participation and Request for Comments''. We will consider comments on this section before we make the final decision on whether this rule should be categorically excluded from further environmental review.

List of Subjects in 46 CFR Part 401

Administrative practice and procedure; Great Lakes; Navigation (water); Penalties; Reporting and recordkeeping requirements; Seamen.

■ For reasons discussed in the preamble, the Coast Guard amends 46 CFR part 401 as follows:

PART 401—GREAT LAKES PILOTAGE REGULATIONS

■ 1. Revise the authority citation for part 401 to read as follows:

Authority: 46 U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland Security Delegation No. 0170.1; 46 CFR 401.105 also issued under the authority of 44 U.S.C. 3507.

■ 2. In § 401.407, paragraph (b), which was suspended at 67 FR 47464, July 19, 2002, from July 19, 2002, until July 21, 2003, will continue to be suspended through December 24, 2003; and paragraph (c), temporarily added at 67 FR 47464, July 19, 2002, from July 19, 2002, until July 21, 2003, will continue to be extended through December 24, 2003.

Dated: July 18, 2003.

T.H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 03–18759 Filed 7–18–03; 4:27 pm]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket Nos. 96–45 and 97–21; FCC 03–161]

Request for Immediate Relief Filed by the State of Tennessee; Federal-State Joint Board in Universal Service; Changes to the Board of Directors of the National Exchange Carrier Association, Inc.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission has under consideration a Request for Immediate Relief filed by the State of Tennessee (Tennessee). Tennessee seeks approval to change its service provider for Funding Year 2002 of the schools and libraries universal service support mechanism, before the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has issued a Funding Commitment Decision Letter (FCDL) to Tennessee for Funding Year 2002. For the reasons set forth below, we grant Tennessee's Petition in part, and instruct USAC to process Tennessee's request.

FOR FURTHER INFORMATION CONTACT: Romanda Williams, Attorney, Telecommunications Access Policy Division, Wireline Competition Bureau, (202) 418–7400, TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in CC Docket Nos. 96–45 and 97–21; FCC 03–161 released on July 2, 2003. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC, 20554.

I. Introduction

1. The Federal Communications Commission has under consideration a Request for Immediate Relief filed by the State of Tennessee (Tennessee). Tennessee seeks approval to change its service provider for Funding Year 2002 of the schools and libraries universal service support mechanism, before the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has issued a Funding Commitment Decision Letter (FCDL) to Tennessee for Funding Year 2002. For the reasons set forth below, we grant Tennessee's Petition in part, and instruct USAC to process Tennessee's request in accordance with this Order.

II. Discussion

2. We conclude that it is appropriate to grant, in part, Tennessee's request by modifying the Good Samaritan policy in this limited instance. We direct USAC to process Tennessee's application and Good Samaritan election in accordance with the conditions set forth in this Order.

3. The Commission takes seriously all allegations of waste, fraud, and abuse. We are fully committed to maintaining the integrity of the schools and libraries support mechanism so that we adequately discharge our statutory obligation to preserve and advance universal service. At the same time, we recognize that inaction on a funding request during the pendency of a criminal investigation may have the effect of penalizing parties that are in no way implicated in potential wrongdoing. Based on the circumstances presented, we conclude that it is justified in this instance to allow Tennessee to substitute service providers for purposes of passing through payments to subcontractors.

4. In reaching this decision, we find several factors persuasive. First, we are not aware of any allegations of waste, fraud, abuse, or other wrongdoing relating to any of the subcontractors that have provided service under the Education Networks of America, Inc. (ENA) contract, or, for that matter, the award of the specific ENA contract itself. The relevant subcontractors have provided service in good faith to the schools of Tennessee, in reliance on the contractual agreement between ENA and Tennessee. Second, in granting the requested relief to Tennessee, the risk of improperly paying a potential wrongdoer is diminished because, as discussed more fully below, no funds will be paid to ENA pending further developments in the ongoing investigation. Third, we find it significant that Tennessee was not in a position to take any action to protect its ability to receive universal service discounts in Funding Year 2002. The investigation involving ENA was made public five months after the commencement of the funding year, long after the filing window for Funding Year 2002 has closed, and long after

Tennessee had entered into a contract with ENA for that funding year.

5. We conclude that, in light of the specific circumstances and the enumerated safeguards, it is appropriate to apply a modification of the Good Samaritan policy in this instance. We instruct USAC to grant Tennessee's request to substitute a common carrier as its Good Samaritan service provider for Funding Year 2002, consistent with its existing procedures for Good Samaritan providers and to process Tennessee's funding request. USAC shall determine whether the selected common carrier meets its existing criteria for identifying a substitute service provider. If USAC determines that Tennessee's application for Funding Year 2002 otherwise complies with the rules of the schools and libraries program, USAC shall issue a funding commitment to Tennessee. Upon determining that all of the invoices submitted by ENA's subcontractors comply with program rules and procedures, USAC then may disburse funds to the designated common carrier for payment to ENA's subcontractors. USAC should determine the identities of the subcontractors, their portion of the contract, and the portion associated with services provided by ENA. USAC should ascertain what services have been rendered, the total cost of those services, and the amount that Tennessee has actually paid for the services rendered. USAC may disburse funds for services delivered until the end of Funding Year 2002.

6. We also instruct USAC to set aside on ENA's account any funds that would have been paid to ENA to compensate it directly for its services under the Tennessee contract, but we do not authorize any payment to ENA at this time. We do not know how long the pending investigation may continue, and cannot predict its ultimate resolution. Absent an indictment or other public action, it may be difficult to determine whether the relevant authorities have concluded their investigation. We therefore cannot specify at this time the circumstances under which it would be appropriate for Tennessee or ENA to petition for reimbursement of funds owed to ENA for services rendered pursuant to ENA's Funding Year 2002 contract with Tennessee. At the same time, we expressly contemplate that ENA should have the opportunity to make its case at some future date that the remaining funds should be released to it for services rendered. If, however, ENA ultimately is found either civilly or criminally liable for any actions arising out of its participation in the schools and libraries program, the Commission shall initiate debarment proceedings pursuant to the rules adopted in the Commission's most recent order relating to the schools and libraries universal service mechanism.

7. We deny Tennessee's request that payments be made to its selected Good Samaritan provider to cover the salaries of certain key ENA employees who are necessary to keep the network operational for the remainder of the school year. We remain concerned about any funds going to persons currently employed by ENA at this point, especially given the percentage of funding that Tennessee asserts is required to pay these individuals. We encourage Tennessee to explore alternative arrangements to ensure that its network continues to support the educational mission of the state.

8. In reaching this decision, we seek to balance USAC's proper caution in acting on a funding request that may be associated with a law enforcement investigation with the equally important objective of avoiding potentially harmful effects on third parties. We recognize that the circumstances surrounding other investigations may vary significantly. In granting this petition, we emphasize the narrowness of this fact-specific determination. We do not intend our action today to affect the efficient administration of this universal service support mechanism.

9. In conclusion, we emphasize that we seek to guard against waste, fraud and abuse, while ensuring that universal service is preserved and advanced. We recognize that the ongoing investigation may call into question compliance with Commission rules and requirements. If it is ultimately determined that Tennessee, ENA, or other party has violated any program requirements, the Commission shall take all appropriate actions to address that wrongdoing, including, if merited, seeking reimbursement of disbursed funds. It remains incumbent upon the applicant to ensure its compliance with all program rules. But we decline to relegate the Tennessee Funding Year 2002 application to limbo indefinitely, during the pendency of this ongoing investigation.

III. Ordering Clause

10. Pursuant to sections 1–4, and 254 of the Communications Act of 1934, 47 U.S.C. 151–154 and 254, and § 54.503 of the Commission's rules, that the Petition for Immediate Relief filed by the State of Tennessee on April 17, 2003, is granted to the extent provided herein. We instruct SLD to process Tennessee's Funding Year 2002 application and, if appropriate, disburse funds to the designated Good Samaritan provider, as provided herein.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 03–18640 Filed 7–22–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 021209300–3048–02; I.D. 112502C]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Groundfish Fishery Management Measures; Corrections

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

ACTION: Corrections to the 2003 specifications and management measures.

SUMMARY: NMFS announces corrections to the Pacific Coast groundfish management measures published on March 7, 2003. South of 40°10′ N. lat., references to an area between Point Fermin and Newport South Jetty open during July and August to limited entry fixed gear and open access groundfish fisheries is corrected to allow California scorpionfish retention. Regulatory language referring to exempted prawn trawl in the open access fishery is clarified to only allow fishing inside the Rockfish Conservation Area (RCA) north of 40°10′ N. lat. as stated in the trip limit tables (Table 5 (North) and Table 5 (South)). This action also includes a correction to latitude and longitude coordinates for the RCA 75 fm (137 m) boundary. Typographical errors were corrected for these coordinates in a previous correction published on April 15, 2003, to the final rule but erroneously omitted in the most recent inseason action published on July 7, 2003).

DATES: Effective 0001 hours local July 22, 2003, until the 2004 annual specifications and management measures are effective, unless modified, superseded, or rescinded through a publication in the **Federal Register**.

ADDRESSES: Submit comments to D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way

NE, Seattle, WA 98115–0070; or Rod McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Jamie Goen (Northwest Region, NMFS), phone: 206–526–6140; fax: 206–526–6736; and e-mail: *jamie.goen@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is available on the Government Printing Office's website at: *http://www.access.gpo.gov/su_docs/ca/docs/aces/aces140.html*. Background information and documents are available at the NMFS Northwest Region website at: *http://www.nwr.noaa.gov/1sustfsh/gdfsh01.htm* and at the Pacific Fishery Management Council's website at: *http://www.pcouncil.org*.

Background

The Pacific Coast groundfish specifications and management measures for the 2003 fishing year (January 1–December 31, 2003) were initially published in the **Federal Register** as an emergency rule for January 1–February 28, 2003 (68 FR 908, January 7, 2003) and as a proposed rule for March 1–December 31, 2003 (68 FR 936, January 7, 2003). The emergency rule was amended at 68 FR 4719, January 30, 2003, and the final rule for March 1–December 31, 2003 was published in the **Federal Register** on March 7, 2003 (68 FR 11182). The final rule has been subsequently amended at 68 FR 18166 (April 15, 2003), at 68 FR 23901 (May 6, 2003), at 68 FR 23924 (May 6, 2003), at 68 FR 32680 (June 2, 2003), 68 FR 35575 (June 16, 2003) and at 68 FR 40187 (July 7, 2003).

Management measures for the Pacific Coast groundfish fishery, effective March 1–December 31, 2003 (68 FR 11182, March 7, 2003), contain errors in which species are subject to the limited entry fixed gear and open access Pt. Fermin/Newport South Jetty area (also known as Huntington Flats) opening during July through August. The inseason action published on May 6, 2003 (68 FR 23901), initially corrected the Pt. Fermin/Newport South Jetty area opening from applying to all Federal groundfish species to applying to all Federal groundfish species, except all rockfish and lingcod. The correction in the inseason action published on May 6, 2003, stated, ''The intent of California's California Rockfish Conservation Area proposal presented to the Pacific Council at its September 2002 meeting, as well as language in California's Code of Regulations at Title 14, Section 27.82 (d)(2), was that this area should be open to limited entry fixed gear and open access fixed gear for all Federal groundfish species, except all rockfish, lingcod and ocean whitefish (Note: Ocean whitefish is managed by the State of California). This area is intended to be open during July-August to allow vessels to intercept California scorpionfish that are spawning on the sandy flats.'' However, language allowing California scorpionfish to be retained in the Pt. Fermin/Newport South Jetty area during the July through August opening was inadvertently left out of the May 6, 2003 correction. Since California scorpionfish is a species of rockfish, the language in the May 6, 2003 inseason action prohibits fishing for all rockfish in the Pt. Fermin/Newport South Jetty area, including mistakenly prohibiting fishing for California scorpionfish. This document corrects the error by specifying that fishing for California scorpionfish is permitted during the Pt. Fermin/Newport South Jetty opening.

In addition, regulatory language in the open access fishery section of the management measures (paragraph IV.C.(1)) referring to exempted prawn trawl in the open access fishery is clarified in this document to only allow fishing inside and retention of groundfish caught in the Rockfish Conservation Area (RCA) north of 40°10′ N. lat. as stated in the trip limit tables (Table 5 (North) and Table 5 (South)).

NMFS Actions

■ For the reasons stated herein, NMFS announces the following corrections to the 2003 specifications and management measures (68 FR 11182 (March 7, 2003), as amended at 68 FR 18166 (April 15, 2003), at 68 FR 23901 (May 6, 2003), at 68 FR 23924 (May 6, 2003), at 68 FR 32680 (June 2, 2003) at 68 FR 35575 (June 16, 2003) and at 68 FR 40187 (July 7, 2003)) to read as follows:

* * * * *

PART 660—[CORRECTED]

■ 1. On page 11206, in section IV., under A. General Definitions and Provisions, paragraph (19)(e)(ii) is corrected to read as follows:

(ii) The 75–fm (137–m) depth contour used north of 40°10′ N. lat. as an eastern boundary for the trawl RCA is defined by straight lines connecting all of the following points in the order stated:

* * * * *

(19) 48°05.91′ N. lat., 125°08.30′ W. long.;

(20) 48°07.00′ N. lat., 125°09.80′ W. long.;

(21) 48°06.93′ N. lat., 125°11.48′ W. long.;

(22) 48°04.98′ N. lat., 125°10.02′ W. long.;

* * * * *

■ 2. On page 11217, in section IV., under B. Limited Entry Fishery, paragraph (1) is revised to read as follows:

IV. NMFS Actions

B. Limited Entry Fishery

(1) *General*. Most species taken in limited entry fisheries will be managed with cumulative trip limits (see paragraph IV.A.(1)(d),) size limits (see paragraph IV.A.(6)), seasons (see paragraph IV.A.(7)), and areas that are closed to specific gear types. The trawl fishery has gear requirements and trip limits that differ by the type of trawl gear on board (see paragraph IV.A.(14)). Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph IV.A.(19)). Yelloweye rockfish retention is prohibited in the limited entry fixed gear fisheries. Most of the management measures for the limited entry fishery are listed above and in the following tables: Table 3 (North), Table 3 (South), Table 4 (North), and Table 4 (South).

A header in Table 3 (North), Table 3 (South), Table 4 (North) and Table 4 (South) generally describes the Rockfish Conservation Area (i.e., closed area) for vessels participating in the limited entry fishery. The RCA boundaries are defined by latitude and longitude coordinates (See paragraph IV.A.(19), earlier) [Note: Between a line drawn due south from Point Fermin (33°42′ 30″ N. lat.; 118°17′ 30″ W. long.) and a line drawn due west from the Newport South Jetty (33°35′37″ N. lat.; 117°52′50″ W. long.,) vessels fishing for all Federal groundfish species, except lingcod and all rockfish other than California scorpionfish, with hook-and-line and/or trap (or pot) gear may operate from shore to a seaward boundary line which approximates 50 fm (91 m) in the months of July and August.]

Management measures may be changed during the year by announcement in the **Federal Register**. However, the management regimes for several fisheries (nontrawl sablefish, Pacific whiting, and black rockfish) do not neatly fit into these tables and are addressed immediately following Table 3 (North), Table 3 (South), Table 4 (North), and Table 4 (South).

* * * * *

■ 3. On page 11221, in section IV., under B. Limited Entry Fishery, at the end of paragraph (1), Table 4 (South) is revised to read as follows:

IV. NMFS Actions

B. Limited Entry Fishery

(1) * * *

BILLING CODE 3510–22–S

Table 4 (South). Trip Limits for Limited Entry Fixed Gear South of 40°10' N. Latitude[1/]

Other Limits and Requirements Apply -- Read Sections IV. A. and B. NMFS Actions before using this table

		JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area[7/] (RCA): South of 40°10' N. lat.	20 fm - 150 fm (See footnote 9 for description of Pt. Fermin/Newport South Jetty open area)	20 fm - 150 fm	
1	**Minor slope rockfish[4/]**			
2	40°10' - 38° N. lat.	No more than 25% of weight of sablefish landed/ trip		1,800 lb/ 2 months
3	South of 38° N. lat.	30,000 lb/ 2 months		
4	**Splitnose**			
5	40°10' - 38° N. lat.	1,800 lb/ 2 months		
6	South of 38° N. lat.	20,000 lb/ 2 months		
7	**Sablefish**			
8	40°10' - 36° N. lat.	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 3,200 lb/ 2 months		
9	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb		
10	**Longspine thornyhead**	9,000 lb/ 2 months		
11	**Shortspine thornyhead**	2,000 lb/ 2 months		
12	**Dover sole**	5,000 lb/ month When fishing for Pacific sanddabs, vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to 1 lb (0.45 kg) of weight per line are not subject to the RCAs.		
13	**Arrowtooth flounder**			
14	**Petrale sole**			
15	**Rex sole**			
16	**All other flatfish[2/]**			
17	**Whiting[3/]**	10,000 lb/ trip		
18	**Minor shelf rockfish, widow, and yellowtail rockfish[4/]**	250 lb/ 2 months	200 lb/ 2 months	100 lb/ 2 months
19	**Canary rockfish**	CLOSED[5/]		
20	**Yelloweye rockfish**	CLOSED[5/]		
21	**Cowcod**	CLOSED[5/]		
22	**Bocaccio**	CLOSED[5/]		
23	**Minor nearshore rockfish**			
24	Shallow nearshore	400 lb/ 2 months	300 lb/ 2 months	200 lb/ 2 months
25	Deeper nearshore	500 lb/ 2 months	300 lb/ 2 months	200 lb/ 2 months
26	California scorpionfish	800 lb/ 2 months	CLOSED[5/]	
27	**Lingcod[6/]**	400 lb/ month, when nearshore open		CLOSED[5/]
28	**Other fish[8/]**	Not limited		

Table 4 (South) continued

1/ "South" means 40°10' N. lat. to the U.S.-Mexico border. 40°10' N. lat. is about 20 nm south of Cape Mendocino, CA.

2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 4 with species specific management measures, including trip limits.

3/ The whiting "per trip" limit in the Eureka area shoreward of 100 fm is 10,000 lb/ trip throughout the year. Outside Eureka area, the 20,000 lb/ trip limit applies. See IV. B.(3).

4/ Chilipepper rockfish is included in the trip limits for minor shelf rockfish and POP is included in the trip limits for minor slope rockfish.

5/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV. A.(7).

6/ The minimum size limit for lingcod is 24 inches (61 cm) total length.

7/ The "Rockfish Conservation Area" is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at IV. A.(19)(e) that may vary seasonally.

8/ Other fish are defined at 50 CFR 660.302, as those groundfish species or species groups for which there is no trip limit, size limit, quota, or harvest guideline.

9/ During July-August, between a line drawn due south from Point Fermin (33° 42' 30" N. lat.; 118° 17' 30" W. long.) and a line drawn due west from the Newport South Jetty (33° 35' 37" N .lat.; 117° 52' 50" W. long.,) vessels fishing for all federal groundfish species, except lingcod and all rockfish other than California scorpionfish, with hook&line and/or trap (or pot) gear may operate from shore to a seaward boundary line which approximates 50 fm.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

* * * * *

■ 4. On page 11222, in section IV., under C. Trip Limits in the Open Access Fishery, paragraph (1) is revised to read as follows:

IV. NMFS Actions

C. Trip Limits in the Open Access Fishery

(1) *General.* Open access gear is gear used to take and retain groundfish from a vessel that does not have a valid permit for the Pacific Coast groundfish fishery with an endorsement for the gear used to harvest the groundfish. This includes longline, trap, pot, hook-and-line (fixed or mobile), setnet and trammel net (south of 38° N. lat. only), and exempted trawl gear (trawls used to target non-groundfish species: pink shrimp or prawns, and, south of Pt. Arena, CA (38°57′30″ N. lat.), CA halibut or sea cucumbers). Unless otherwise specified, a vessel operating in the open access fishery is subject to, and must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery. Groundfish species taken in open access fisheries will be managed with cumulative trip limits (see paragraph IV.A.(1)(d)), size limits (see paragraph IV.A.(6)), seasons (see paragraph IV.A.(7)), and closed areas. Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph IV.A.(19)). Retention of yelloweye rockfish and canary rockfish and, south of 40°10′ N. lat., bocaccio is prohibited in all open access fisheries. The trip limits, size limits, seasons, and other management measures for open access groundfish gear, including exempted trawl gear, are listed in Table 5 (North) and Table 5 (South). A header in Table 5 (North) and Table 5 (South) approximates the RCA (i.e., closed area) for vessels participating in the open access fishery. [Note: Between a line drawn due south from Point Fermin (33°42′ 30″ N. lat.; 118°17′ 30″ W. long.) and a line drawn due west from the Newport South Jetty (33°35′37″ N. lat.; 117°52′50″ W. long.,) vessels fishing for all Federal groundfish species, except lingcod and all rockfish other than California scorpionfish, with hook-and-line and/or trap (or pot) gear may operate from shore to a seaward boundary line which approximates 50 fm (91 m) in the months of July and August.] For vessels participating in exempted trawl fisheries, the RCAs are the same as those for limited entry trawl gear, except that pink shrimp and, north of 40°10′ N. lat., prawn trawl are not subject to the RCA. Exempted trawl gear RCAs are detailed in the exempted trawl gear sections at the bottom of Table 5 (North) and Table 5 (South). Retention of groundfish caught by exempted trawl gear is prohibited in the designated RCAs, except that pink shrimp trawl and, north of 40°10′ N. lat., prawn trawl may retain groundfish caught both inside and outside the trawl RCA subject to the limits in Table 5 (North) and Table 5 (South). Retention of groundfish caught by salmon troll gear is prohibited in the designated RCAs, except that salmon trollers may retain yellowtail rockfish caught both inside and outside the non-trawl RCA subject to the limits in Table 5 (North). The trip limit at 50 CFR 660.323(a)(1) for black rockfish caught with hook-and-line gear also applies. (The black rockfish limit is repeated at paragraph IV.B.(4).)

* * * * *

■ 5. On page 11225, in section IV., under C. Trip Limits in the Open Access Fishery, at the end of paragraph (1), Table 5 (South) is revised to read as follows:

IV. NMFS Actions

C. Trip Limits in the Open Access Fishery

(1) * * *

* * * * *

Table 5 (South). 2003 Trip Limits for Open Access Gears South of 40°10' N. Latitude[1/]

Other Limits and Requirements Apply -- Read Sections IV. A. and C. NMFS Actions before using this table

		JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area[7/] (RCA):			
	South of 40°10' N. lat.	20 fm - 150 fm (See footnote 8 for description of Pt. Fermin/Newport South Jetty open area)	20 fm - 150 fm	
1	**Minor slope rockfish[2/]**			
2	40°10' - 38° N. lat.	Per trip, no more than 25% of weight of the sablefish landed		
3	South of 38° N. lat.	10,000 lb/ 2 months		
4	**Splitnose**	200 lb/ month		
5	**Sablefish**			
6	40°10' - 36° N. lat.	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 3,200 lb/ 2 months		
7	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb		
8	**Thornyheads**			
9	40°10' - 34°27' N. lat.	CLOSED[5/]		
10	South of 34°27' N. lat.	50 lb/ day, no more than 2,000 lb/ 2 months		
11	**Dover sole**	3,000 lb/month, no more than 300 lb of which may be species other than Pacific sanddabs. When fishing for Pacific sanddabs, vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to 1 lb of weight per line are not subject to the RCAs.		
12	**Arrowtooth flounder**			
13	**Petrale sole**			
14	**Rex sole**			
15	**All other flatfish[3/]**			
16	**Whiting**	300 lb/ month		
17	**Minor shelf rockfish, widow and chilipepper rockfish[2/]**	250 lb/ 2 months	200 lb/ 2 months	100 lb/ 2 months
18	**Canary rockfish**	CLOSED[5/]		
19	**Yelloweye rockfish**	CLOSED[5/]		
20	**Cowcod**	CLOSED[5/]		
21	**Bocaccio**	CLOSED[5/]		

Table 5 (South) contined

22	**Minor nearshore rockfish**			
23	Shallow nearshore	400 lb/ 2 months	300 lb/ 2 months	200 lb/ 2 months
24	Deeper nearshore	500 lb/ 2 months	300 lb/ 2 months	200 lb/ 2 months
25	California scorpionfish	800 lb/ 2 months	CLOSED[5/]	
26	**Lingcod**[4/]	300 lb/ month, when nearshore open		CLOSED[5/]
27	**Other Fish**[6/]	Not limited		
28	**PINK SHRIMP EXEMPTED TRAWL GEAR** *(not subject to RCAs)*			
29	South	**Effective April 1 - October 31, 2003:** Groundfish 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.		
30	**PRAWN AND, SOUTH OF 38°57'30" N. LAT., CALIFORNIA HALIBUT AND SEA CUCUMBER EXEMPTED TRAWL**			
31	**EXEMPTED TRAWL Rockfish Conservation Area**[7/] **(RCA):**			
32	40°10' - 38° N. lat.	60 fm - 200 fm		
33	38° - 34°27' N. lat.	60 fm - 200 fm		
34	South of 34°27' N. lat.	100 fm - 200 fm along the mainland coast; shoreline - 200 fm around islands		
35		Groundfish 300 lb/trip. Trip limits in this table also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57'30" N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 25.)		

Table 5 (South) contined

1/ "South" means 40°10' N. lat. to the U.S.-Mexico border. 40°10' N. lat. is about 20 nm south of Cape Mendocino, CA.

2/ Yellowtail rockfish is included in the trip limits for minor shelf rockfish and POP is included in the trip limits for minor slope rockfish.

3/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 5 with species specific management measures, including trip limits.

4/ The size limit for lingcod is 24 inches (61 cm) total length.

5/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV. A.(7).

6/ Other fish are defined at 50 CFR 660.302, as those groundfish species or species groups for which there is no trip limit, size limit, quota, or harvest guideline.

7/ The "Rockfish Conservation Area" is a gear and/or sector specific closed area generally described by depth contours, but specifically defined by lat./long. coordinates set out at IV. A.(19)(e), that may vary seasonally.

8/ During July-August, between a line drawn due south from Point Fermin (33° 42' 30" N. lat.; 118° 17' 30" W. long.) and a line drawn due west from the Newport South Jetty (33° 35' 37" N .lat.; 117° 52' 50" W. long.,) vessels fishing for all federal groundfish species, except lingcod and all rockfish other than California scorpionfish, with hook&line and/or trap (or pot) gear may operate from shore to a seaward boundary line which approximates 50 fm.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

* * * * *

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

Dated: July 17, 2003.

Rebecca Lent,

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

[FR Doc. 03–18731 Filed 7–22–03; 8:45 am]

BILLING CODE 3510–22–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021122286–3036–02; I.D. 071803A]

Fisheries of the Exclusive Economic Zone off Alaska; Pelagic Shelf Rockfish in the West Yakutat District of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pelagic shelf rockfish in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2003 total allowable catch (TAC) of pelagic shelf rockfish in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 20, 2003, through 2400 hrs, A.l.t., December 31, 2003.

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

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

The 2003 TAC of pelagic shelf rockfish for the West Yakutat District was established as 640 metric tons (mt) by the final 2003 harvest specifications for groundfish in the GOA (68 FR 9924, March 3, 2003).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2003 TAC for pelagic shelf rockfish in the West Yakutat District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 630 mt, and is setting aside the remaining 10 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for pelagic shelf rockfish in the West Yakutat District of the GOA.

Classification

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

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

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 18, 2003.

John H. Dunnigan

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

[FR Doc. 03–18729 Filed 7–18–03; 3:49 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021122286–3036–02; I.D. 071803C]

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for northern rockfish in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2003 total allowable catch (TAC) of northern rockfish in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 20, 2003, through 2400 hrs, A.l.t., December 31, 2003.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–2778.

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

The 2003 TAC of northern rockfish for the Western Regulatory Area was established as 890 metric tons (mt) by the final 2003 harvest specifications for groundfish in the GOA (68 FR 9924, March 3, 2003).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2003 TAC for northern rockfish in the Western Regulatory Area will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 740 mt, and is setting aside the remaining 150 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for northern rockfish in the Western Regulatory Area of the GOA.

Classification

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

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

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 18, 2003.

John H. Dunnigan,

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

[FR Doc. 03–18730 Filed 7–18–03; 3:49 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 141
Wednesday, July 23, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 279–0406; FRL–7534–5]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). This revision concerns oxides of nitrogen (NO_X) emissions from mobile sources, specifically marine vessels. We are proposing to approve a local rule to regulate this emission source under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by August 22, 2003.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901 or e-mail to *steckel.andrew@epa.gov.*

You can inspect copies of the submitted SIP revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revision at the following locations:

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

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765.

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

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, EPA Region IX, (415) 947–4117.

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

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I. The State's Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD	1631	Pilot Credit Generation Program for Marine Vessels	10/04/02	12/12/02

On February 7, 2003, this rule 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 This Rule?

We approved a version of Rule 1631 into the SIP on February 7, 2002. The SCAQMD adopted revisions to the SIP-approved version on October 4, 2002 and CARB submitted them to us on December 12, 2002.

C. What Is the Purpose of the Rule Revision?

The rule revision will allow mobile source emission reduction credits (MSERCs) to be generated from marine vessel engine remanufacture, in addition to engine replacement, and will allow participating marine vessels to travel beyond district waters twice per year for maintenance or repair. The MSERCs can be used by stationary sources in the SCAQMD's Regional Clean Air Incentive Market (RECLAIM) program to meet declining emission limits. The TSD has more information about this rule.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193).

Guidance and policy documents that we used to define specific evaluation criteria include the following:

1. ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement), 57 FR 55620, November 25, 1992.

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook).

3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

4. ''Improving Air Quality with Economic Incentive Programs,'' January 2001, Office of Air and Radiation, EPA–452/R–01–001. This guidance document applies to discretionary economic incentive programs (EIPs) and represents the agency's interpretation of what EIPs should contain in order to meet the requirements of the CAA. Because this guidance is non-binding and does not represent final agency

action, EPA is using the guidance as an initial screen to determine whether approvability issues arise.

B. Does the Rule Meet the Evaluation Criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and EIPs. The TSD has more information on our evaluation.

C. Public Comment and Final Action

Because EPA believes the submitted rule fulfills all relevant requirements, we are proposing to fully approve it as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate this rule into the federally enforceable SIP.

III. Background Information

A. Why Was This Rule Submitted?

NO_X helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO_X emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency NO_X rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). *See* section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990.	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: July 9, 2003.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 03–18739 Filed 7–22–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

RIN 1018–AI87

Review of Information Concerning Silver Carp (*Hypophthalmichthys molitrix*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of inquiry.

SUMMARY: The U.S. Fish and Wildlife Service is reviewing available economic and biological information on silver carp (*Hypophthalmichthys molitrix*) for possible addition of that species to the list of injurious wildlife under the Lacey Act. The importation and introduction of silver carp into the natural ecosystems of the United States may pose a threat to agriculture, horticulture, forestry, the health and welfare of human beings, and the welfare and survival of wildlife and wildlife resources in the United States. Listing silver carp as injurious would prohibit their importation into, or transportation between, the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United

States, with limited exceptions. This document seeks comments from the public to aid in determining if a proposed rule is warranted.

DATES: Comments must be submitted on or before September 22, 2003.

ADDRESSES: Comments may be mailed or sent by fax to the Chief, Division of Environmental Quality, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 322, Arlington, VA 22203; fax (703) 358–1800. You may also send comments by electronic mail (e-mail) to: *SilverCarp@fws.gov.* See the Public Comments Solicited section below for file format and other information about electronic filing.

FOR FURTHER INFORMATION CONTACT: Kari Duncan, Division of Environmental Quality, Branch of Invasive Species at (703) 358–2464 or *kari_duncan@fws.gov.*

SUPPLEMENTARY INFORMATION: On October 16, 2002, the U.S. Fish and Wildlife Service received a petition requesting that bighead carp, black carp, and silver carp be considered for inclusion in the injurious wildlife regulations pursuant to the Lacey Act. The petitioners expressed concern that silver carp could invade the Great Lakes from the Mississippi River basin, where they are established, through a manmade ship and sanitary canal. The petitioners, 25 members of Congress representing the Great Lakes region, are concerned that silver carp, because they are voracious eaters, may impact food supplies available to native fisheries in the Great Lakes, which are already struggling against other invasive species. The petitioners also noted that the Great Lakes fisheries are valued at approximately $4 billion, and resource managers have spent decades trying to restore and protect them.

Silver carp are native to several major Pacific drainages in eastern Asia from the Amur River of far eastern Russia, south through much of the eastern half of China to the Pearl River, possibly including northern Vietnam. Silver carp are filter feeders capable of eating large amounts of phytoplankton. They also feed on zooplankton, bacteria, and detritus (loose material produced directly from disintegration processes). They prefer standing or slow-flowing water of impoundments or river backwaters ranging in temperature from 43 to 82 °F. They can grow to maximum lengths of about 40 inches and weigh up to 110 pounds. They reach sexual maturity at about 18 inches and can live up to 20 years.

Silver carp were imported into the United States in 1973 and stocked for phytoplankton control in eutrophic (nutrient rich) water bodies and as a food fish (Fuller, et al, 1999). By the mid-1970s, silver carp were being raised at six Federal, State, and private facilities, and had been stocked in several municipal sewage lagoons by the late 1970s. Silver carp have been recorded in 12 States.

The Lacey Act (18 U.S.C. 42) and its implementing regulations in 50 CFR part 16 restrict the importation into or the transportation between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States of any species of wildlife, or eggs thereof, determined to be injurious or potentially injurious to certain interests, including those of agriculture, horticulture, forestry, the health and welfare of human beings, and the welfare and survival of wildlife and wildlife resources in the United States. However, injurious wildlife may be imported by permit for zoological, educational, medical, or scientific purposes in accordance with permit regulations at 50 CFR 16.22, or by Federal agencies without a permit solely for their own use. If the process initiated by this notice results in the addition of silver carp to the list of injurious wildlife contained in 50 CFR part 16, their importation into the United States would be prohibited except under the conditions, and for the purposes, described above.

This notice solicits economic, biological, or other information concerning silver carp. The information will be used to determine if the species is a threat, or potential threat, to those interests of the United States delineated above, and thus warrants addition to the list of injurious wildlife in 50 CFR 16.13.

Public Comments Solicited

Please send comments to Chief, Division of Environmental Quality, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 322, Arlington, VA 22030. Comments may be hand-delivered to the above address or faxed to (703) 358–1800. If you submit comments by e-mail, please submit comments as an ASCII file format and avoid the use of special characters and encryption. Please include ''Attn: [RIN 1018–AI87]'' and your name and return address in your e-mail message. Please note that this email address will be closed at the termination of this public comment period.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Authority: This notice is issued under the authority of the Lacey Act (18 U.S.C. 42).

Dated: June 27, 2003.

Craig Manson,

Assistant Secretary for Fish, Wildlife and Parks.

[FR Doc. 03–18654 Filed 7–22–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 030314059–3173–02; I.D. 062003A]

RIN 0648–AQ48

Fisheries of the Exclusive Economic Zone (EEZ) Off Alaska; Salmon Fisheries off the Coast of Alaska

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to correct the definition of the area in which salmon fishing regulations implementing the Fishery Management Plan for the Salmon Fisheries in the EEZ off the Coast of Alaska (Salmon FMP) apply, to remove the words ''high seas'' wherever they appear in the salmon fishing regulations, and to remove an obsolete reference to the North Pacific Fisheries Act of 1954 from the salmon fishing regulations. This action is necessary to make the regulations consistent with the area definition approved by the Secretary of Commerce (Secretary) in Amendment 3 to the Salmon FMP. The intended effect of this action is

regulatory consistency with the provisions of Amendment 3 to the Salmon FMP and improved conservation and management of the salmon fisheries off the coast of Alaska.

DATES: Comments must be received no later than August 22, 2003.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, (Attn: Lori Durall). Hand or courier deliveries of comments may be sent to NMFS, Alaska Region, 709 West 9th Street, Room 420, Juneau, AK 99801. Comments also may be sent via facsimile (fax) to 907–586–7557. Comments will not be accepted if submitted via e-mail or the Internet.

Copies of the Regulatory Impact Review (RIR) may be obtained from the Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 1668, Attn: Lori Gravel-Durall.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7228 or e-mail at patsy.bearden@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The salmon fishery in the EEZ off the Coast of Alaska is managed pursuant to the Salmon FMP prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* Implementing regulations originally appeared at 50 CFR part 674.

The original Salmon FMP provided for the management of the salmon fisheries throughout the EEZ off the coast of Alaska except for the extreme western part of the EEZ west of 175° E. long., near Attu Island. The Council excluded this extreme western part of the EEZ because this area was under the jurisdiction of the International Convention for the High Sea Fisheries of the North Pacific Ocean. The original name of the salmon FMP was the ''Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175 Degrees East Longitude.''

Over time, the international regime affecting salmon fisheries changed and the Council revisited its salmon management policies. In 1989, the Council adopted Amendment 3 to the FMP which, among other things, renamed the FMP to ''Fishery Management Plan for the Salmon Fisheries in the EEZ off the Coast of Alaska,'' deferred regulation of the salmon fisheries in the EEZ to the State of Alaska, and extended the geographic jurisdiction of the Salmon FMP over waters of the EEZ west of 175° E. long. The Secretary approved Amendment 3 to the FMP in 1990 and published a final rule on November 15, 1990 (55 FR 47773) implementing associated measures and removing all the specific management measures from 50 CFR part 674. The 1990 implementing regulations unintentionally omitted the new title of the FMP and the extension of the geographic jurisdiction of the FMP. No public comment was received on this or on any of the other changes made by Amendment 3, and the entire amendment was non-controversial.

In compliance with required consolidation of all Federal fishery regulations pursuant to President Clinton's Regulatory Reform Initiative, NMFS Alaska Region combined all existing fisheries regulations for the EEZ off Alaska, including part 674, into a new 50 CFR part 679 (62 FR 19686, April 23, 1997). This final rule recodified the two regulatory provisions that NMFS erroneously failed to revise in its 1990 rulemaking that implemented Amendment 3. Moreover, NMFS erred again in the regulatory consolidation by redefining the ''High Seas Salmon Management Area'' as ''the portion of the EEZ off Alaska east of 175° E. long.'' This new error reinstated the definition of the Salmon FMP management area effective prior to approval of Amendment 3 by eliminating waters west of 175 degrees east longitude from the management area. Consequently, the current regulations implementing the Salmon FMP fail to give regulatory effect to the expansion of geographic jurisdiction adopted in Amendment 3.

A correction notice was published (67 FR 44093, July 1, 2002) to change the name of the Salmon FMP as it appears in 50 CFR 679.1(i) to be consistent with the Salmon FMP as amended and approved by the Secretary.

This action proposes to correct the second omission in the regulations in order to completely implement Amendment 3, by revising the language that describes the geographic jurisdiction of the Salmon FMP as described in Amendment 3.

This action also incorporates other changes. The specific changes proposed by this action are as follows:

Section 679.1 Purpose and Scope

Section 679.1(h) would be revised to remove the reference to 175° E. long., and to restate the application of State of Alaska regulations consistent with the approved Salmon FMP, as shown in the following table.

TABLE 1. PROPOSED CHANGES TO REGULATORY TEXT.

Existing text	Proposed text
(i) Fishery Management Plan for the Salmon Fishery in the EEZ off the Coast of Alaska (Salmon FMP).Regulations in this part govern fishing for salmon by fishing vessels of the United States in the EEZ seaward of Alaska east of 175° E. long., referred to as the High Seas Salmon Management Area.	(i) Fishery Management Plan for the Salmon Fishery in the EEZ off the Coast of Alaska (Salmon FMP) (1) Regulations in this part govern fishing for salmon by fishing vessels of the United States in the Salmon Management Area. (2) State of Alaska laws and regulations that are consistent with the Salmon FMP and with the regulations in this part apply to vessels of the United States that are fishing for salmon in the Salmon Management Area.

Section 679.2 Definitions

The definitions of ''High Seas Salmon Management Area,'' ''Commercial fishing,'' paragraph (1),'' ''personal use fishing,'' and ''Optimum yield,'' paragraph (1) would be revised to remove the term ''high seas'' which was made obsolete by approval of Amendment 3.

Section 679.3 Relation to Other Laws

The heading of § 679.3(f), § 679.3(f)(1), and § 679.3(f)(3) would be revised to remove ''High Seas Salmon'' and add in its place ''Salmon.''

Section 679.4 Permits

Section 679.4 would be revised to remove the term ''High Seas Salmon'' in 26 places where the term occurs in headings and paragraphs.

Section 679.7 Prohibitions

The heading for § 679.7(h) would be revised to remove the term ''High Seas Salmon'' and add in its place ''Salmon.'' Section 679.7(h)(1) would be removed because it refers to the North Pacific Fisheries Act of 1954, 16 U.S.C. 1021–1035, which is no longer in effect. Paragraph (h)(2) would be redesignated as introductory paragraph (h) and would be revised to remove the term ''High Seas Salmon'' and add in its place ''Salmon.''

Figure 23 to 50 CFR part 679 would be added to present a map showing the location of the Salmon Management Area.

Classification

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed rule would extend the jurisdiction of the Salmon Fishery Management Plan (FMP) to the EEZ waters west of 175° E. long, so that it is consistent with the provisions of Amendment 3 to the FMP. This proposed rule will have no effect on any small entities because there is no domestic salmon fishery in these waters, there has not been any domestic salmon fishing in these waters for 40 years, and NMFS expects no salmon fishing to develop in these waters in the forseeable future. As a result, an initial regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, International organizations, Recordkeeping and reporting.

Dated: July 17, 2003.

Rebecca Lent,

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

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

Authority: 16 U.S.C. 773 et. seq., 1801 et. seq., and 3631 et. seq.

2. In § 679.1, paragraph (i) is revised to read as follows:

§ 679.1 Purpose and scope.

* * * * *

(i) Fishery Management Plan for the Salmon Fisheries in the EEZ off the Coast of Alaska (Salmon FMP). (1) Regulations in this part govern fishing for salmon by fishing vessels of the United States in the Salmon Management Area.

(2) State of Alaska laws and regulations that are consistent with the Salmon FMP and with the regulations in this part apply to vessels of the United States that are fishing for salmon in the Salmon Management Area.

* * * * *

3. In § 679.2 , the definition for ''High Seas Salmon Management Area'' is removed; the definitions for ''Commercial fishing,'' paragraph (1); ''Optimum yield'' paragraph (1); and ''Personal use fishing,'' are revised and the definition for ''Salmon Management Area'' is added, alphabetically to read as follows:

§ 679.2 Definitions.

* * * * *

Commercial fishing means:

(1) For purposes of the salmon fishery, fishing for salmon for sale or barter.

* * * * *

Optimum yield means:

(1) With respect to the Salmon Fishery, that amount of any species of salmon that will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities, as specified in the Salmon FMP.

* * * * *

Personal use fishing means, for purposes of the salmon fishery, fishing other than commercial fishing.

* * * * *

Salmon Management Area means the waters of the EEZ off the coast of Alaska (see Figure 23 to part 679), including parts of the North Pacific Ocean, Bering Sea, Chukchi Sea, and Beaufort Sea. The Salmon Management Area is divided into a West Area and an East Area with the border between the two at the longitude of Cape Suckling (143 53′36″ W):

(1) The West Area is the area of the EEZ off the coast of Alaska west of the longitude of Cape Suckling (143°53′36″ W.) It includes the EEZ in the Bering Sea, Chukchi Sea, and Beaufort Sea, as well as the EEZ in the North Pacific Ocean west of Cape Suckling.

(2) The East Area is the area of the EEZ off the coast of Alaska east of the longitude of Cape Suckling (143°53′36″ W.).

* * * * *

4. In § 679.7, paragraph (h) is revised to read as follows:

§ 679.7 Prohibitions.

* * * * *

(h) *Salmon fisheries.* (1) Fish for, take, or retain any salmon in violation of this part.(2) Engage in fishing for salmon in the Salmon Management Area defined at § 679.2 and Figure 23 to this part, except to the extent authorized by § 679.4(h).

* * * * *

§ § 679.3 and 679.4 [Amended]

5. In addition to the amendment set out above, in 50 CFR part 679, remove the words ''High Sea Salmon'' and add in their place the word ''Salmon'' in the following places:

a. In § 679.3:

The heading for paragraph (f), introductory text, (f)(1), and (f)(3).

b. In § 679.4:

Paragraph (a)(1)(v),

The heading and paragraph (h) introductory text,

Paragraphs (h)(1), (h)(1)(iii), (h)(3), (h)(4), (h)(5)(i), (h)(5)(i)(A), (h)(5)(i)(B), (h)(5)(i)(C), (h)(5)(ii), (h)(6) introductory text, (h)(6)(iv), (h)(7)(i), (h)(8), (h)(10),

The heading for paragraph (h)(13) introductory text,

Paragraphs (h)(13)(i), (h)(13)(ii)(A), (h)(13)(ii)(E), (h)(14)(i), (h)(15)(i), (h)(15)(iii), (h)(15)(vii), (h)(16)(i).

§ 679.4 [Amended]

6. In § 679.4(h)(2), remove the words ''High Seas Management Area'' and add in their place the words ''Salmon Management Area.''

7. In part 679, Figure 23 is added to read as follows:

BILLING CODE 3510–22–S

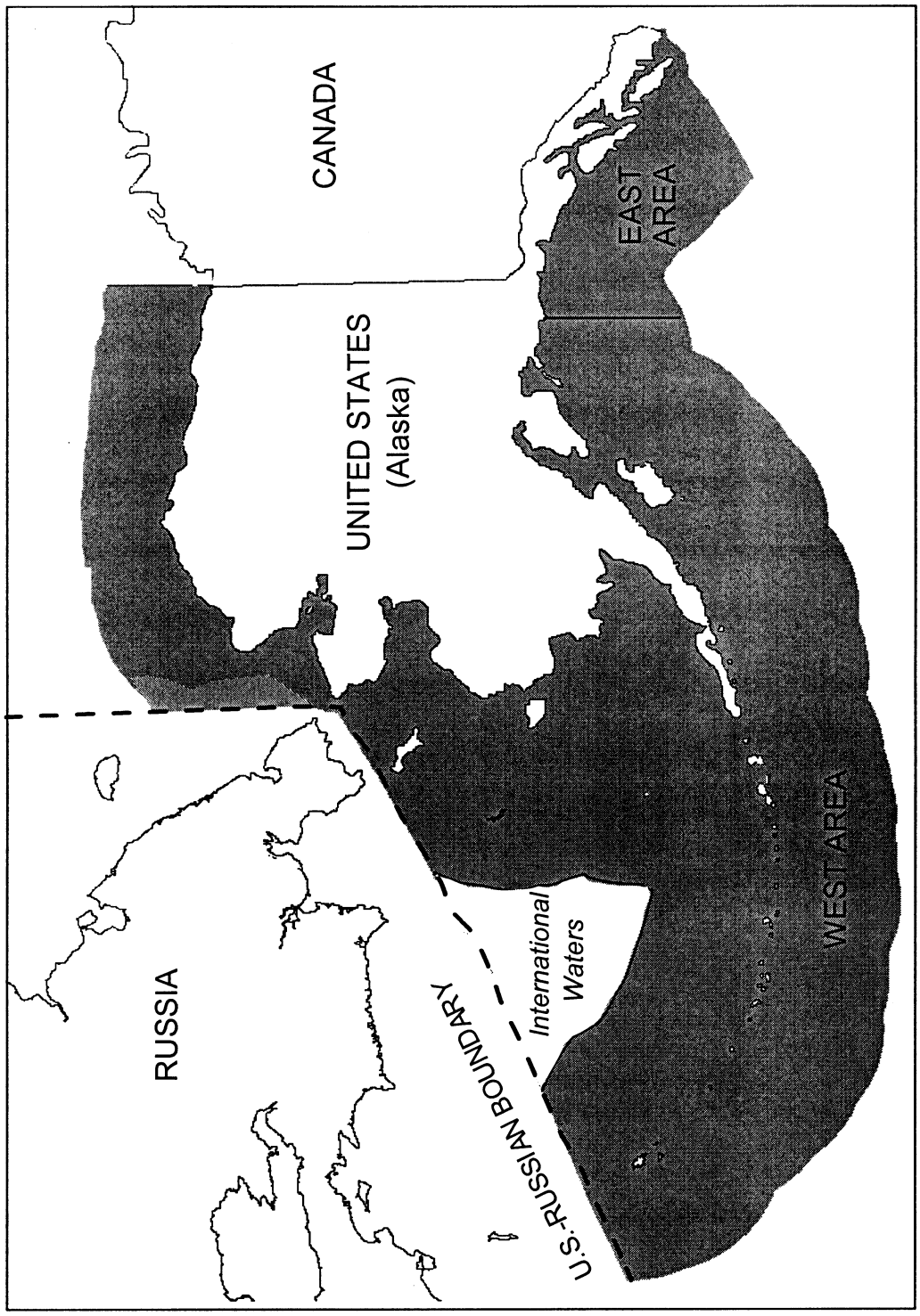

Figure 23 to Part 679 -- Salmon Management Area
(see § 679.2)

[FR Doc. 03–18734 Filed 7–22–03; 8:45 am]
BILLING CODE 3510–22–C

Notices

Federal Register

Vol. 68, No. 141

Wednesday, July 23, 2003

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Food Distribution Program: Value of Donated Foods From July 1, 2003 Through June 30, 2004

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the national average value of donated foods or, where applicable, cash in lieu of donated foods, to be provided in school year 2004 for each lunch served by schools participating in the National School Lunch Program (NSLP), and for each lunch and supper served by institutions participating in the Child and Adult Care Food Program (CACFP). It also announces the national average value of donated foods to be provided in school year 2004 for each lunch served by commodity only schools.

EFFECTIVE DATE: July 1, 2003.

FOR FURTHER INFORMATION CONTACT: Suzanne Rigby, Chief, Schools and Institutions Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302, or telephone (703) 305–2644.

SUPPLEMENTARY INFORMATION: These programs are listed in the Catalog of Federal Domestic Assistance under Nos. 10.550, 10.555, and 10.558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983.)

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act. This notice has been determined to be exempt under Executive Order 12866.

National Average Minimum Value of Donated Foods for the Period July 1, 2003 Through June 30, 2004

This notice implements mandatory provisions of sections 6(c), 14(f) and 17(h)(1)(B) of the National School Lunch Act (the Act) (42 U.S.C. 1755(c), 1762a(f), and 1766(h)(1)(B)). Section 6(c)(1)(A) of the Act establishes the national average value of donated food assistance to be given to States for each lunch served in NSLP at 11.00 cents per meal. Pursuant to section 6(c)(1)(B), this amount is subject to annual adjustments as of July 1 of each year to reflect changes in a three-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year (Price Index). Section 17(h)(1)(B) of the Act provides that the same value of donated foods (or cash in lieu of donated foods) for school lunches shall also be established for lunches and suppers served in CACFP. Notice is hereby given that the national average minimum value of donated foods, or cash in lieu thereof, per lunch under NSLP (7 CFR part 210) and per lunch and supper under CACFP (7 CFR part 226) shall be 15.75 cents for the period July 1, 2003 through June 30, 2004.

The Price Index is computed using five major food components in the Bureau of Labor Statistics Producer Price Index (cereal and bakery products; meats, poultry and fish; dairy products; processed fruits and vegetables; and fats and oils). Each component is weighted using the relative weight as determined by the Bureau of Labor Statistics. The value of food assistance is adjusted each July 1 by the annual percentage change in a three-month average value of the Price Index for March, April and May each year. The three-month average of the Price Index increased by 4 percent from 133.79 for March, April and May of 2002 to 139.09 for the same three months in 2003. When computed on the basis of unrounded data and rounded to the nearest one-quarter cent, the resulting national average for the period July 1, 2003 through June 30, 2004 will be 15.75 cents per meal. This is an increase of 0.50 cents from the school year 2003 rate.

Section 14(f) of the Act provides that commodity only schools shall be eligible to receive donated foods equal in value to the sum of the national average value of donated foods established under section 6(c) of the Act and the national average payment established under section 4 of the Act (42 U.S.C. 1753). Such schools are eligible to receive up to 5 cents per meal of this value in cash for processing and handling expenses related to the use of such commodities.

Commodity only schools are defined in section 12(d)(2) of the Act (42 U.S.C. 1760(d)(2)) as ''schools that do not participate in the school lunch program under this Act, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs.'' For school year 2004, commodity only schools shall be eligible to receive donated food assistance valued at 36.75 cents for each free, reduced price, and paid lunch served. This amount is based on the sum of the section 6(c) level of assistance announced in this notice and the adjusted section 4 minimum national average payment factor for school year 2004. The section 4 factor for commodity only schools does not include the two cents per lunch increase for schools where 60 percent of the lunches served in the school lunch program in the second preceding school year were served free or at reduced prices, because that increase is applicable only to schools participating in NSLP.

Authority: Sections 6(c)(1)(A) and (B), 6(e)(1), 14(f) and 17(h)(1)(B) of the National School Lunch Act, as amended (42 U.S.C. 1755(c)(1)(A) and (B) and 6(e)(1), 1762a(f), and 1766(h)(1)(B)).

Dated: July 17, 2003.

Theodore O. Bell,

Acting Administrator.

[FR Doc. 03–18716 Filed 7–22–03; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Forest Service

Bridger-Teton National Forest; Pinedale Ranger District; WY; Environmental Impact Statement for the Upper Green River Area Rangeland Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement (EIS) to analyze the effects of domestic livestock grazing in the upper Green River area. The analysis contained in the EIS will be used by the Responsible Official to decide whether or not, and how, livestock grazing would be authorized on the grazing allotments within the project area. The project area is located in western Wyoming; approximately 30 miles northwest of Pinedale, Wyoming near the Green River Lakes. The majority of the project area lies within Sublette County, with small portions that extend into Teton and Fremont counties. The entire 162,800 acre project area lies within the boundaries of the Pinedale Ranger District. The project area is comprised on the following six grazing allotments: Badger Creek, Beaver-Twin Creeks, Noble Pastures, Roaring Fork, Upper Green River, and Wagon Creek.

DATES: Comments concerning the scope of the analysis must be received by August 25, 2003. The draft environmental impact statement is expected in September of 2003 and the final environmental impact statement is expected in January of 2004.

ADDRESSES: Send written comments to Craig Turlock, District Ranger, Pinedale Ranger District, Box 220, Pinedale, Wyoming 82941. For further information, mail correspondence to *mailroom r4 bridger teton@fs.fed.us* and on the subject line, put only ''Upper Green Grazing Allotments''.

FOR FURTHER INFORMATION CONTACT: Craig Turlock, District Ranger, Pinedale Ranger District, (see **ADDRESSES** above).

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of this analysis is to determine if livestock grazing is appropriate within the analysis area. If livestock grazing is appropriate, there may be a need to update and/or refine desired rangeland conditions and develop new management prescriptions to meet them. Integral to this is a need to confirm or attain compliance and consistency of this analysis and its resultant decision with legal mandates, including the National Environmental Policy Act of 1976 (NEPA), as well as policy direction, including the Bridger-Teton National Forest Land and Resource Management Plan (Forest Plan). To date the Forest Service has identified three alternatives.

Alternative B: Proposed Action

The Forest Service proposes to authorize grazing use within the project area under updated grazing management direction, in order to move existing rangeland resource conditions toward the desired conditions that will be developed by an interdisciplinary team. The updated direction would be incorporated in respective allotment management plans (AMP's) to guide grazing management within the project area. New Allotment Management Plans (AMP's) would be developed for the Badger Creek, Beaver-Twin Creeks, Noble Pastures, and Wagon Creek allotments, and the existing AMP's for the Roaring Fork and Upper Green River allotments would be updated as a result of this action. Grazing management strategies would be developed or revised in accordance with the Code of Federal Regulations (CFR), 36 CFR 222.1(b)(2), which describes allotment management planning provisions. Current grazing management strategies would be maintained where resource objectives are being achieved, and new management strategies would be implemented in areas where resource objectives have not been met. Rotational grazing systems would be initiated in the Badger Creek, Beaver-Twin Creeks, and Roaring Fork allotments and modified, as needed, in the remaining allotments to ensure desired conditions are reached.

Possible Alternatives

Alternative A—Grazing as Currently Permitted (No Action Alternative)

Although allotment management plans (AMP's) would be prepared for each of the six allotments, the grazing management practices specified for the allotments with existing AMP's would not be changed. The Upper Green River and Roaring Fork allotments would continue to operate under the guidelines specified in AMP's that are over 25 years old, and season-long grazing would persist in the Badger Creek and Beaver-Twin Creeks allotments. In addition, no new utilization standards would be initiated to move existing resource conditions in the project area toward the desired future conditions (DFC's) specified in the Forest Plan.

Alternative C—No Grazing by Domestic Livestock (No Grazing Alternative)

Alternative C would eliminate livestock grazing in the project area. This alternative was developed to demonstrate the effects that eliminating domestic cattle grazing would have on the environment and to more clearly illustrate the potential effects of implementing either Alternative A or Alternative B. Under this alternative, domestic livestock grazing in all six allotments of the project area would be phased out over several years as existing Term Grazing Permits expire.

Responsible Official

Craig Trulock, District Ranger, Pinedale Ranger District, PO Box 220, Pinedale, Wyoming 82941.

Nature of Decision To Be Made

The decision, which is based on this analysis, will be to decide if livestock will be allowed to graze on the allotment complex, either through the implementation of the proposed action, or an alternative to the proposed action. The decision would include any mitigation measures needed in addition to those prescribed in the Forest Plan.

Scoping Process

The following methods were used to invite the public to participate in this project: A scoping letter was mailed to those listed on the Bridger-Teton National Forest's general mailing list on February 10, 2000. The mailing list included private landowners, term grazing permit holders, special interest groups, interested members of the public, and local, state, and federal agencies. The letter described the proposed action, the purpose and need for the project, the process that would be followed for completing the environmental analysis, and the scope of the decision to be made. Additionally, the letter solicited public participation in the process, specifically the submission of comments, concerns, and recommendations regarding management of the six allotments in the project area.

Term grazing permit holders, or their representatives, were contacted shortly after the project was initiated to solicit their input concerning management of the six allotments within the project area.

The Forest Service is seeking information, comments, and assistance from individuals, organizations, tribal governments, and federal, state, and local agencies interested in or affected by this project. Comments submitted on the 2000 scoping effort and any new comments will be used to prepare the Draft Environmental Impact Statement (DEIS). Public participation will be solicited by notifying in person and/or by mail known interested and affected publics. News releases will be used to give the public general notice. Public participation activities would include requests for written comments. Scoping includes: (1) Identifying potential

issues, (2) narrowing the potential issues and identifying significant issues of those that have been covered by prior environmental review, (3) exploring alternatives in addition to No Action, and (4) identifying potential environmental effects of the proposed action and alternatives.

Preliminary Issues

The Forest Service has identified the following potential issues. Through the 2000 scoping effort, issues have been refined. Public input is especially valuable here. It will help us determine which of these merit detailed analysis. It will also help identify additional issues related to the proposed action that may not be listed here.

Issue 1—Effects of livestock grazing on riparian and aquatic function.

Issue 2—Effects of livestock grazing on Threatened, Endangered and Sensitive species.

Issue 3—The social and economic effects of authorizing livestock grazing in the area.

Issue 4—Effects of livestock grazing on rangeland function.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: July 11, 2003

Craig P. Trulock,

District Ranger.

[FR Doc. 03–18685 Filed 7–22–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic Provincial Advisory Committee (OPAC) will meet on Friday, August 15, 2003. The meeting will be held at the Forest Service Conference Room at the Forest Service Quinault office in Quinault, Washington. The meeting will begin at 9:30 a.m. and end at approximately 3 p.m. Agenda topics are: Current status of key Forest issues; Owl management update; Washington State Department of Natural Resources management on the Olympic Peninsula; Open forum; Public comments; and field trip to review two recently completed Secure Rural Schools and Community Self-Determination Act—Title II projects.

All Olympic Province Advisory Committee Meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Ken Eldredge, Province Liaison, USDA, Olympic National Forest Headquarters, 1835 Black Lake Blvd., Olympia, WA 98512–5623, (360) 956–2323 or Dale Hom, Forest Supervisor, at (306) 956–2301.

Dated: July 17, 2003.

Dale Hom,

Forest Supervisor, Olympic National Forest.

[FR Doc. 03–18676 Filed 7–22–03; 8:45 am]

BILLING CODE 3410–01–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Arkansas and Mississippi 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 Arkansas and Mississippi Advisory Committees will convene at 1:30 p.m. and adjourn at 3 p.m. (CDT) on Wednesday, August 20, 2003. The purpose of the conference call is to discuss the civil rights ''Listening Tour'' meeting to be held in November.

This conference call is available to the public through the following call-in number: 1–800–659–1109, access code #18042828. 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 Farella E. Robinson, Civil Rights Analyst of the Central Regional Office 913–551–1400 (TDD 913–551–1414), by 3 p.m. on Friday, August 15, 2003.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC July 15, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–18715 Filed 7–22–03; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New York 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 York Advisory Committee to the Commission will convene at 9:10 a.m. and adjourn at 10:40 a.m. on Thursday, August 7, 2003. The purpose of the conference call is to discuss and approve draft report on the SAC's May 21st forum and to decide on the steps to complete this draft.

This conference call is available to the public through the following call-in number: 1–800–659–8292, access code: 18094622. 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 contact name.

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, August 6, 2003.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 15, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–18712 Filed 7–22–03; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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: Office of the Secretary, Office of Civil Rights.

Title: Request for Reasonable Accommodation.

Form Number(s): CD–575.

OMB Approval Number: None.

Type of Review: Regular submission.

Burden Hours: 2.

Number of Respondents: 20.

Average Hours Per Response: 7 minutes.

Needs and Uses: Under the Rehabilitation Act of 1973, Federal agencies must provide reasonable accommodation to qualified employees or applicants with disabilities, unless to do so would cause the undue hardship. The Department will provide reasonable accommodation to a qualified individual with a disability who is an: Applicant who needs an accommodation in order to be considered for a job (any change to a job application process that enables a qualified applicant with a disability to be considered for the position such qualified applicant desires); employee who needs an accommodation to enable him or her to perform the essential functions of the job or to gain access to the workplace (any change to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enables a qualified individual with a disability to perform the essential functions of that position); or employee who needs an accommodation to enjoy equal benefits and privileges of employment (that which enables an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities). Executive Order 13164 requires Federal agencies to provide written procedures for reasonable accommodation for applicants and employees. Records must be maintained in order to evaluate the fair application of the procedures for the Department.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

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: July 17, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–18656 Filed 7–22–03; 8:45 am]

BILLING CODE 3510–BP–P

DEPARTMENT OF COMMERCE

International Trade Administration

Proposed Information Collection; Comment Request; Internet Export Finance Matchmaker

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burdens, invites the general public and other Federal agencies to take this opportunity to comment on the 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 September 22, 2003.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork, Clearance Officer, Department of Commerce, Room 6625, 14th & Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of the information collection instrument and instructions should be directed to: William Franklin, Office of Finance, Room 1800A, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230; phone number: (202) 482–3277.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Office of Finance assists U.S. firms in identifying trade finance opportunities and promoting the competitiveness of U.S. financial services in international trade. The Office of Finance interacts with private financial institutions in insurance, banking, leasing, factoring, barter, and counter-trade; U.S. financing agencies,

such as the Export-Import Bank and the Overseas Private Investment Corporation; and multilateral development banks, such as the World Bank, Asian Development Bank, and others. To facilitate contact between exporters and financial institutions, the Office of Finance has developed an interactive Internet trade finance matchmaking program to link exporters seeking trade finance with banks and other financial institutions. The information collected from financial institutions regarding the trade finance products and services they offer is compiled into a database. An exporter is able to electronically submit a one-page form identifying the potential export transaction and type of financing requested. This information is electronically matched with the financial institution(s) that meet the requirements of the exporter. After a match has been made, a message is electronically sent to both the exporter and the financial institution containing information about the match, and contact information for either party to initiate communication. This program is designed to implement the Department of Commerce's goal of improving access to trade financing for small business exporters.

II. Method of Collection

Electronic submission to the International Trade Administration, Office of Finance.

III. Data

OMB Number: 0625–0232.
Form Number: ITA–4146P.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 500.
Estimated Time Per Response: Exporters: 10 minutes; financial institutions: 30 minutes.
Estimated Total Annual Burden Hours: 90.
Estimated Total Annual Cost to the Public: $3,150.

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 costs) of the proposed collection information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or 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 will also become a matter of public record.

Dated: July 17, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–18655 Filed 7–22–03; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-357–812]

Honey From Argentina; Extension of Time Limit for Preliminary Results of Administrative Review

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

ACTION: Notice of Extension of Time Limits.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the 2001–2002 administrative review of the antidumping duty order on honey from Argentina. This review covers seven exporters of the subject merchandise to the United States and the period May 11, 2001 through November 30, 2002.

EFFECTIVE DATE: July 23, 2003.

FOR FURTHER INFORMATION CONTACT: Brian J. Sheba at (202) 482–0145 or Donna Kinsella at (202) 482–0194, Antidumping and Countervailing Duty Enforcement Group III, Office Eight, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On January 22, 2003, in response to requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with December anniversary dates, we published a notice of initiation of this administrative review in the **Federal Register**. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 68 FR 3009. Reviews were requested for honey from Argentina (A-357–812) for the following exporters: Asociacion de Cooperativas Argentinas, Centauro S.A., Cia. Europeo Americana SA, Comexter, Robinson S.A., Compa Inversora Platense S.A., Compania Apicola Argentina SA, ConAgra Argentina S.A., Coope-Riel Ltda., Cooperativa DeAgua Potable y Otros, Establecimiento Don Angel S.r.L., Food Way, S.A., Francisco Facundo Rodriguez, Jay Bees, Jose Luis Garcia, HoneyMax S.A, Mielar S.A., Navicon S.A., Nexco S.A., Parodi Agropecuaria S.A., Radix S.r.L., Seylinco S.A., Times S.A., and Transhoney S.A.

Petitioners submitted a withdrawal of request for review on January 17, 2003 for the following companies: Centauro S.A., Comexter, Robinson S.A., Compa Inversora Platense S.A., ConAgra Argentina S.A., Coope-Riel Ltda., Cooperativa DeAgua Potable y Otros, Establecimiento Don Angel S.r.L., Food Way, S.A., Francisco Facundo Rodriguez, Jay Bees, Jose Luis Garcia, Navicon S.A., Parodi Agropecuaria S.A., and Times S.A. The Department rescinded this review with respect to the above companies on March 21, 2003. *See Notice of Partial Rescission of Antidumping Duty Administrative Review*, 68 FR 13895. The Department also rescinded the reviews for Compania Apicola Argentina S.A. and Mielar S.A., who submitted withdrawals of their requests for review on March 18, 2003 and March 26, 2003, respectively. *See Notice of Partial Rescission of Antidumpting Duty Administrative Review*, 68 FR 25568 (May 13, 2003).

Pursuant to the time limits for administrative reviews set forth in section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Tariff Act), the current deadlines are September 2, 2003 for the preliminary results and December 31, 2003 for the final results. It is not practicable to complete this review within the normal statutory time limit due to a number of significant case issues, such as sales below cost, high inflation, and currency devaluation. Therefore, the Department is extending the time limit for completion of the preliminary results until December 8, 2003 in accordance with section 751(a)(3)(A) of the Tariff Act. The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

This extension is in accordance with section 751(a)(3)(A) of the Tariff Act (19 U.S.C. 1675 (a)(3)(A) (2001)).

Dated: July 16, 2003.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 03–18747 Filed 7–22–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

University of Missouri—Kansas City; 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, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 03–023. *Applicant:* University of Missouri—Kansas City, Kansas City, MO 64110. *Instrument:* OptoTOP He 3–D Digitizing System. *Manufacturer:* Breuckmann GmbH, Germany. *Intended Use: See* notice at 68 FR 34907.

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:* The foreign instrument provides: (1) Digitized video images for constructing very precise three-dimensional replicas, (2) imaging accuracy to 2.0 μm, (3) image acquisition times on the order of several seconds and (4) portable operation. The National Institutes of Health advises in its memorandum of June 9, 2003 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 03–18748 Filed 7–22–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

The University of Texas Health Science Center, 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: 03–025.

Applicant: The University of Texas Health Science Center at San Antonio, San Antonio, TX 78229–7750.

Instrument: Electron Microscope, Model JEM–1230.

Manufacturer: JEOL Ltd., Japan.

Intended Use: See notice at 68 FR 36770, June 19, 2003.

Order Date: May 1, 2003.

Docket Number: 03–027.

Applicant: Oregon Health & Science University, Beaverton, OR 97006.

Instrument: Electron Microscope, Model Tecnai G^2 12 BioTWIN.

Manufacturer: FEI Company, The Netherlands.

Intended Use: See notice at 68 FR 36770.

Order Date: March 28, 2003.

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. 03–18749 Filed 7–22–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Vermont; 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, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 03–026. *Applicant:* University of Vermont, Burlington, VT 05405. *Instrument:* Cuvette System for muscle fiber investigation. *Manufacturer:* Scientific Instruments GmbH, Germany. *Intended Use:* See notice at 68 FR 36770, June 19, 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: The foreign instrument provides a laser-controlled perfusion cuvette system capable of both measuring the contractile force of a strip of muscle tissue and viewing the tissue with an inverted microscope. The National Institutes of Health advises in its memorandum of June 9, 2003 that (1) This capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 03–18750 Filed 7–22–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-357–813]

Notice of Extension of Time Limit for the Preliminary Results of Countervailing Duty Administrative Review: Honey from Argentina

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

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the administrative review of the countervailing duty order on honey from Argentina until no later than December 8, 2003. The period of review (POR) is January 1, 2001, through December 31, 2002. This extension is made pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act).

EFFECTIVE DATE: July 23, 2003.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn or Addilyn Chams-Eddine, Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration,

U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone: (202) 482–4236 or (202) 482–0648, respectively.

SUPPLEMENTARY INFORMATION:

Background

In December 2002, the Department received a timely request from interested parties in accordance with section 751(a) of the Act and section 351.213(b) of the regulations, for an administrative review of the countervailing duty order on honey from Argentina, which has a December anniversary date. On January 22, 2003, the Department initiated this administrativereview covering the period January 1, 2001, through December 31, 2001. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Review and Request for Revocation in Part*, 68 FR 3009 (January 22. 2003). Pursuant to a request from the Government of Argentina (GOA), and following the solicitation and analysis of comments from the interested parties, the Department extended the POR to cover calendar year 2002 in addition to 2001. *See Memorandum to the File: Honey from Argentina: Expansion of the Period of Review in the First Administrative Review of the Countervailing Duty Order* (dated February 21, 2003). The preliminary results of this review are currently due September 2, 2003.

Statutory Time Limits

Section 351.213(h)(1) of the regulations requires the Department to issue the preliminary results of review within 245 days after the last day of the anniversary month of the order or suspension agreement for which the administrative review was requested, and final results of the review within 120 days after the date on which notice of the preliminary results is published in the **Federal Register**. However, if the Department determines that it is not practicable to complete the review within the aforementioned specified time limits, section 351.213(h)(2) allows the Department to extend the 245-day-period to 365 days and to extend the 120-day period to 180 days. If the Department does not extend the time for issuing preliminary results, the Department may extend the time for issuing final results from 120 to 300 days.

Extension of Time Limits for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the regulations, the Department has determined that it is not practicable to complete the preliminary results in this administrative review by September 2, 2003. The Department is awaiting the response to a supplemental questionnaire requesting additional information from the GOA. Moreover, the Department must analyze two years' worth of data and intends to verify the GOA questionnaire responses. Therefore, the Department is extending the deadline for completion of the preliminary results of the administrative review of the countervailing duty order on honey from Argentina by 97 days. The preliminary results of the review will be issued not later than December 8, 2003.

This notice is published pursuant to section 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: July 16, 2003.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 03–18746 Filed 7–22–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Notice of an Energy Trade Mission to Nigeria, Gabon, and Sao Tome and Principe

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce invites U.S. companies to participate in the following overseas trade mission: Oil and Gas Business Development Mission to Nigeria, Gabon, and Sao Tome and Principe. Date: November 15–22, 2003. The Deputy Assistant Secretary for Energy, Environment, and Materials, Kevin Murphy, will lead an energy trade mission to Nigeria, Gabon, and Sao Tome and Principe. Focusing on equipment, services, exploration, and production aspects of the energy sector, the mission will include representatives from 8–12 U.S. firms interested in gaining access to these West African energy markets. For a more complete description, obtain a copy of the mission statement from the Project Officer indicated below.

DATES: The trade will take place from November 15–22, 2003. Applications may be submitted immediately. All application must be received by September 15, 2003. Applications received after the date will be considered only if space and scheduling constraints permit. Recruitment and selection or private sector participants for the trade will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions dated March 3, 1997.

ADDRESSES: Applications must be submitted to Mr. Aaron Brickman, Office of Energy, U.S. Department of Commerce, Room H4056, Washington, DC 20230; Telephone: 202–482–1889; Facsimile: 202–482–0170; E-mail: *aaron_brickman@ita.doc.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Brickman, U.S. Department of Commerce; Telephone: 202–482–1889; Facsimile: 202–482–0170; or E-mail: *aaron_brickman@ita.doc.gov*.

Dated: July 8, 2003.

Helen Burroughs,

Director, Office of Energy.

[FR Doc. 03–18708 Filed 7–22–03; 8:45 am]

BILLING CODE 3510–DR–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071803B]

Proposed Information Collection; Comment Request; An Observer Program for Catcher Vessels in the Pacific Coast Groundfish Fishery

AGENCY: 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 September 22, 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 Jonathan Cusick, 206–860–3477, or at *Jonathan.Cusick@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

Catcher vessels participating in the Pacific Coast Groundfish Fishery and who are selected by NOAA must provide NOAA with notification at least 24 hours before departure for a fishing trip and with notification when the vessel ceases to participate in the observed portion of the fleet. The information will be used to plan for fishery observer assignments.

II. Method of Collection

Reports are made by phone to a toll-free number.

III. Data

OMB Number: 0648–0423.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,116.

Estimated Time Per Response: 10 minutes.

Estimated Total Annual Burden Hours: 1,763.

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: July 16, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–18732 Filed 7–22–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Office of Coast Survey; Notice of Solicitation for Hydrographic Services Review Panel

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of solicitation for Hydrographic Services Review Panel.

SUMMARY: This notice responds to the Hydrographic Services Improvement Act Amendments of 2002, Public Law 107–372, which requires the Under Secretary of Commerce for Oceans and Atmosphere to solicit nominations for membership on the Hydrographic Services Review Panel. This advisory committee will advise the Under Secretary on matters related to the responsibilities and authorities set forth in section 303 of the Hydrographic Services Improvement Act of 1998 and its amendments, and such other appropriate matters the Under Secretary refers to the Panel for review and advise.

DATES: Résumés should be sent to the address, e-mail or FAX specified and must be received by September 29, 2003.

ADDRESSES: Director, Office of Coast Survey, National Ocean Service, NOAA (N/CS), 1315 East West Highway, Silver Spring, MD, 20910, FAX: 301–713–4019, e-mail: *Hydroservices.panel@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Gretchen Imahori, Office of Coast Survey, NOS/NOAA, 301–713–2770, Extension 140, FAX: 301–713–4019, *Gretchen.Imahori@noaa.gov.*

SUPPLEMENTARY INFORMATION: Under 33 U.S.C. 883a *et seq*. NOS is responsible for providing nautical charts and related information for safe navigation and other purposes. In fulfilling this responsibility, NOS collects and compiles hydrographic, tidal and current, geodetic and a variety of other data and information. The Hydrographic Services Panel shall advise on topics such as the Office of Coast Survey (OCS) National Survey Plan, technologies relating to operations, research and development, and dissemination of data pertaining to:

(a) Hydrographic surveying and data;
(b) Nautical charting;
(c) Water level measurements;
(d) Current measurements;
(e) Geodetic measurements; and
(f) Geospatial measurements.

The Panel shall consist of 15 voting members appointed by the Under Secretary in accordance with the provisions and prohibitions of Section 105 of the Act. Members will be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance. The Director of the Joint Hydrographic Institute and no more than two employees of the National Oceanic and Atmospheric Administration shall serve as nonvoting members of the Panel.

The voting members of the Panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields relating to hydrographic surveying, tides, currents, geodetic and geospatial measurements, marine transportation, port administration, vessel pilotage, and coastal and fishery management. The membership shall be fairly balanced in terms of points of view represented and the functions to be performed by the Panel. An individual may not be appointed as a voting member of the Panel if the individual is a full-time officer or employee of the United States. Any voting member of the Panel who is an applicant for, or beneficiary of (as determined by the Administrator), any assistance under the Act shall disclose to the Panel that relationship, and may not vote on any matter pertaining to that assistance. The term of office of a voting member of the Panel shall be 4 years, except that of the original appointees, five shall be appointed for a term of 2 years, five shall be appointed for a term of 3 years, and five shall be appointed for a term of 4 years, as specified by the Administrator at the time of appointment. The members will serve at the discretion of the Administrator and will be subject to ethical standards applicable to special government employees. Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office.

The Panel shall select one voting member to serve as the Chair and another voting member to serve as the Vice Chair. The Vice Chair shall act as Chair in the absence or incapacity of the Chair.

Meetings will occur on a biannual basis and, at any other time, at the call of the Chair or upon the request of a majority of the voting members or of the Administrator.

Voting members of the Panel shall receive compensation at a rate

established by the Administrator, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when actually engaged in the performance of duties for such Panel and shall be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

Dated: June 30, 2003.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 03–18252 Filed 7–22–03; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 030530139–3139–01; I.D. 010401B]

Marine Protected Areas and an Inventory of Existing Marine Managed Areas

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Solicitation of public comments on proposed criteria for building an Inventory of Marine Managed Areas.

SUMMARY: NOAA and the Office of the Secretary, Department of the Interior (DOI), jointly propose criteria, definitions, and data fields that will be used in development of an Inventory of U.S. Marine Managed Areas or MMAs. The MMA Inventory will provide information that will lead to the fulfillment of requirements of Executive Order (E.O.) 13158 on Marine Protected Areas (MPAs). This action requests comments on the working criteria for including existing sites in the MMA Inventory, and describes data fields to provide consistent information about each site. This notice also makes clear that the development of the MMA Inventory is Phase I, to be followed by the development of the List of MPAs (Phase II) called for in E.O. 13158. The intent of this document is to solicit public participation in the development of an inventory of existing U.S. MMAs (Federal, state, commonwealth, territorial, and tribal sites) as a resource for managers, scientists, and the general public.

DATES: Comments must be received on or before September 22, 2003.

ADDRESSES: Comments regarding the proposed MMA Inventory criteria, definitions, and data fields should be sent to Joseph Uravitch, National MPA Center, N/ORM, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910. Comments also will be accepted if submitted via e-mail to mpa.comments@noaa.gov. E-mail comments should state ''MMA Inventory Comments'' on the subject line.

FOR FURTHER INFORMATION CONTACT: Joseph Uravitch, NOAA, 301–713–3155, x195, or Piet deWitt, DOI, 202–208–6224.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document also is accessible via the Internet at the Office of the **Federal Register**'s web site at *http://www.access.gpo.gov/su__docs/aces/aces140.html*.

Background

E.O. 13158 directs DOC and DOI, in consultation with the Department of Defense, the Department of State, the United States Agency for International Development, the Department of Transportation, the Environmental Protection Agency, the National Science Foundation, and other pertinent Federal agencies, to work with non-Federal partners to protect significant natural and cultural resources within the marine environment of the United States, including the Great Lakes, by strengthening and expanding a scientifically-based comprehensive national system of MPAs. A key purpose of E.O. 13158 is to ''enhance the conservation of our Nation's natural and cultural marine heritage and the ecologically and economically sustainable use of the marine environment for future generations.'' A first step in developing this scientifically-based national system of MPAs is the development of an inventory of MMAs. This inventory will become the initial pool of sites from which the List of MPAs called for in section 4(d) of E.O. 13158 will be developed.

DOC and DOI were given specific roles by E.O. 13158. DOC has delegated lead responsibility to the Under Secretary of Commerce for Oceans and Atmosphere. DOI has delegated its lead to the Assistant Secretary, Lands and Minerals Management. NOAA and DOI have stewardship responsibilities for marine resources under various Federal laws, including the Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act, the Marine Mammal Protection Act, the Coastal Zone Management Act, the National Marine Sanctuaries Act, the Antiquities Act, the National Wildlife Refuge System Administration Act, the Outer Continental Shelf Lands Act, and the National Park Service Organic Act. These and other authorities direct DOC and DOI agencies to manage marine areas for a wide variety of objectives. Area-based management has been used for years to protect marine habitats and submerged cultural resources, rebuild and sustain fisheries, provide recreational opportunities, promote marine research, recover endangered species, and support local economies that depend on ocean resources. These areas have been managed in different ways ranging from restricting specific activities and allowing sustainable use of natural resources within an area, to the establishment of marine reserves that limit access and close the site to all uses except research.

The MMA Inventory will be used in Phase I to inform Federal, state, commonwealth, territorial, local, and tribal agencies of the locations and characteristics of existing MMAs and to form a pool from which sites may later be considered for placement on the List of MPAs (Phase II). Resource managers and others can use this information to better manage these areas and determine the effectiveness of individual sites, as well as regional and national assemblages. The core purposes of the MMA Inventory are:

Providing centralized, easily accessed information and maps on existing Federal, state, commonwealth, territorial, local, and tribal MMAs in the United States;

- Providing information and tools for environmental assessments and effectiveness monitoring (supporting independent analyses and studies of a wide variety of marine issues by governmental and non-governmental users);
- Providing important site-specific information for developing and maintaining the official nationwide List of MPAs required by section 4(d) of E.O. 13158; and
- Providing information to fulfill other requirements of E.O. 13158.

NOAA and DOI have placed a variety of protective or restrictive measures on different marine areas to achieve different management purposes. The definitions and working criteria proposed in this notice are being used to build the MMA Inventory and may, at some future date, be used in determining which sites should be placed on the List of MPAs (Phase II). However, these definitions and criteria are not final and are subject to change based on public comment and through experience gained by using the MMA

Inventory and implementing E.O. 13158. The public will be informed of changes to the criteria through the **Federal Register** and the MPA web site, *http://www.mpa.gov*.

It is important to distinguish between the MMA Inventory and the List of MPAs. The MMA Inventory is not designed to fulfill the requirement of E.O. 13158 for a List of MPAs but is the first step toward development of that List. The List is to be established at some future date after an administrative process for listing has been established.

After public comment on this notice, NOAA and DOI will decide if the working criteria for building the MMA Inventory should be broadened, narrowed, or otherwise modified. A notice of agency decision will be published in the **Federal Register** and the MPA web site, *http://www.mpa.gov*, will be modified appropriately.

Proposal

E.O. 13158 defines a ''marine protected area'' as ''any area of the marine environment that has been reserved by Federal, State, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein.'' The E.O. defines ''marine environment'' to mean ''those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands thereunder, over which the United States exercises jurisdiction, consistent with international law.'' The E.O. does not define other key terms in the MPA definition such as ''lasting,'' ''protection,'' and ''cultural resources.'' Given the breadth of these terms and the wide array of sites they could include, NOAA and DOI are clarifying key terms within the E.O.'s MPA definition that will serve as criteria for determining MMAs.

Therefore, NOAA and DOI jointly propose the following definitions for: ''area,'' ''marine,'' ''reserved,'' ''lasting,'' ''protection,'' and ''cultural.'' These definitions serve as criteria and include a description of the characteristics necessary for inclusion in the MMA Inventory and a description of features that would exclude a site from the MMA Inventory.

Area

To be included in the MMA Inventory, the site:

Must have legally defined geographical boundaries, and may be of any size, except that the site must be a subset of the U.S. Federal, state, commonwealth, territorial, local or tribal marine environment in which it is located. Application of this criterion would exclude, for example: Generic broad-based resource management authorities without specific locations. Areas whose boundaries change over time based on species presence.

Marine

To be included in the MMA Inventory, the site:

Must be: (a) ocean or coastal waters (note: coastal waters may include intertidal areas, bays or estuaries); (b) an area of the Great Lakes or their connecting waters; (c) an area of lands under ocean or coastal waters or the Great Lakes or their connecting waters; or (d) a combination of the above. The term ''intertidal'' is understood to mean the shore zone between the mean low water and mean high water marks. An MMA may be part of a larger site that includes uplands, however, the terrestrial portion is not considered an MMA. For mapping purposes, an MMA may show an associated terrestrial protected area.

NOAA and DOI propose to use the following definition for the term ''estuary'': ''Part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage, and extending upstream to where ocean-derived salts measure less than 0.5 parts per thousand during the period of average annual low flow.'' Application of this criterion would exclude, for example, strictly freshwater sites outside the Great Lakes region that contain marine species at certain seasons or life history stages unless that site is a component of a larger, multi-unit MMA. Estuarine-like sites on tributaries of the Great Lakes will be considered for inclusion if they are located within the eight digit U.S. Geological Survey cataloging unit adjacent to a Great Lake or its connecting waters.

Reserved

To be included in the MMA Inventory, the site:

Must be established by and currently subject to Federal, state, commonwealth, territorial, local or tribal law or regulation.

Application of this criterion would exclude, for example:

Privately created or maintained marine sites.

Lasting

To be included in the MMA Inventory, the site:

Must provide year-after-year protection for at least three months of each year.

Must be established with an expectation of, or at least the potential for, permanence. If the reservation will expire on a date certain, the reservation must provide a minimum of two years of continuous protection and must have a specific mechanism to consider renewal of protection at the expiration of the reservation.

Application of this criterion would exclude, for example:

Areas subject only to temporary protections, such as areas protected only by emergency fishery regulations under the Magnuson-Stevens Act, which expire after 180 days, and areas that are protected by annual management specifications.

Protection

To be included in the MMA Inventory, the site:

Must have existing laws or regulations that are designed and applied to afford the site with increased protection for part or all of the natural and submerged cultural resources therein for the purpose of maintaining or enhancing the long-term conservation of these resources, beyond any general protections that apply outside the site.

Application of this criterion would exclude, for example:

Areas closed to avoid fishing gear conflicts.

Area-based regulations established solely to limit fisheries by quota management or to facilitate enforcement.

In addition, the Executive Order uses the term cultural resources. NOAA and DOI interpret this to mean any submerged historical or submerged cultural feature, including archaeological sites, historic structures, shipwrecks, artifacts, and subsistence uses in the marine environment.

Taken together, these definitions and criteria provide the basis for selecting sites to be included in the MMA Inventory.

MMA Inventory Data Fields

In addition to the above proposal, comments are solicited on what data and information should be provided about each site in the MMA Inventory. To make the MMA Inventory a useful resource for managers, scientists, users and the public, NOAA and DOI propose to provide specific information in a consistent format for each site. This information could be used by both government and non-government entities to aid analyses of protection of marine resources and improve regional

and national coordination among existing sites. Data in the MMA Inventory eventually will be used to assess whether or not specific sites meet the definitions and criteria to be placed on the List of MPAs. In order to use existing mapping data, maps for sites with upland components will depict the entire area (i.e., the marine area constitutes the MMA by these proposed definitions/criteria; however, the maps in the MMA Inventory also will show any upland component of the national park, national estuarine research reserve, etc.).

NOAA and DOI propose to collect, use, and make available to the public the following information (listed below and found on the web site *http://www.mpa.gov*) for each site in the MMA Inventory. The agencies request public comments on these data fields to determine what information will be most useful for managers, scientists, user-groups, and other members of the public.

Proposed data fields:

MMA Name (name of the site protected); Type of Area (national marine sanctuary, national park, etc.); Level of Government Managing Site (Federal, state, local, tribal); Management Organizations (government agency/department responsible for site management); Purpose of Protections (explanation of what the site was established to protect or manage); Site Description (brief description of site including general features and most prominent, noteworthy, and unique features); Information Web Reference (primary informational web home page address); Location (nearest state, territory or commonwealth); Site Boundaries (if available provide: text description, latitude/longitude coordinates, digital coverage of site boundary, and digital or hard-copy map); Size of Area (number of square miles of surface of both water and land areas within site); Additional Location/Size Information (approximate shoreline length, overlap with other protected areas, connectivity with other protected areas); Marine Components (oceans, bays, estuaries, intertidal areas, Great Lakes, submerged lands, and/or other); Natural Features (biological and geological features); Cultural Features (archaeological remains, historic shipwrecks, subsistence uses); Legal Basis for Establishment (name, citation, and summary of legal authority for creating MMA); Date Established (date initial protection afforded to marine natural or submerged cultural resources, other important dates of increasing protection or expansion of site); Primary Restrictions (brief summary of primary restrictions in MMA); Legal Basis for Implementation (citation to regulations or other legal basis for implementing MMA); Expiration Date of Protections (date, if any, of expiration of regulations or other authority); Site Programs and Plans (types of management programs and plans developed for the MMA); Enforcement (government agencies/departments responsible for enforcing restrictions on site); Effectiveness (measures used to determine management effectiveness); Zone Information (if management of the site is zoned: general zone information, zone purposes, zone boundary delineation, zone resource protections, zone activity and use restrictions); and Information Sources (site staff/contact, publications, web sites, other sources).

Process

An initial and partial MMA Inventory comprised primarily of Federal sites, such as fisheries management zones, national parks, national wildlife refuges, and national marine sanctuaries, has been assembled and published on the MPA web site, *http://www.mpa.gov*. This initial MMA Inventory also includes state-federal national estuarine research reserves and some state sites in the Gulf of Maine and Western Pacific regions. More sites will be added to the MMA Inventory in the future.

The MMA Inventory will not contain all currently protected or managed sites in the marine environment. For example, sites developed by Regional Fishery Management Councils, in conjunction with the National Marine Fisheries Service (NMFS), NOAA, that provide less than three-months' protection or afford only annual restrictions would not appear in the MMA Inventory on the basis of the proposed working criteria.

Some MMA Inventory sites presumably will not meet all of the criteria necessary for placement on the List of MPAs during Phase II of this process. However, these sites will be maintained as part of the MMA Inventory to provide managers, analysts, and other interested parties with a comprehensive database of U.S. MMAs, including sites that may be considered for the List of MPAs, sites on the List of MPAs, and sites determined not to meet the criteria for the List of MPAs. Additional information will be added to the MMA Inventory as it becomes available.

Consultation and Public Comment

E.O. 13158 requires NOAA and DOI to develop the national MPA system in consultation with the Department of Defense, the Department of State, the United States Agency for International Development, the Department of Transportation, the Environmental Protection Agency, the National Science Foundation, and other pertinent Federal agencies. NOAA and DOI are also to consult with states and territories that contain portions of the marine environment, tribes, Regional Fishery Management Councils, and other entities, as appropriate, to promote coordination of Federal, state, territorial, and tribal actions to establish and manage MPAs. NOAA and DOI actively solicit comments from these entities and from the general public on any aspect of this notice of proposed MMA Inventory criteria, definitions, and data fields. Preliminary draft definitions and criteria, as well as inventory data fields, were first released to the public on December 21, 2000, when NOAA and DOI unveiled their MPA web site at *http://www.mpa.gov*. The public was invited informally to comment on any aspect of the web site including the definitions and criteria. For purposes of developing a final notice, comments made in response to the web site invitation will be considered as well as those made in response to this notice. Following review of comments received, NOAA and DOI will publish a final notice of MMA Inventory criteria, definitions, and data fields in the **Federal Register** and *http://www.mpa.gov*.

Classification

Regulatory Planning and Review

This action is not aa regulatory action subject to E.O. 12866 (58 FR 51735, October 4, 1993). This notice would not impose a compliance burden on the economy generally because the proposed definitions and MMA Inventory criteria provided here are only designed to collect data that may later be used to implement E.O. 13158.

Energy Effects

NOAA and DOI have determined that this action will have no effect on energy supply, distribution, or use as required by Executive Order 13211 (66 FR 28355).

Administrative Procedure Act

Pursuant to authority at 5 U.S.C. 553(b)(A), prior notice and an opportunity for public comment are not required to be given, as this is a document concerning agency procedure or practice. Nevertheless, NOAA and DOI want the benefit of the public's comment and are voluntarily giving prior notice and opportunity for public comment.

Dated: June 25, 2003.

Conrad C. Lautenbacher, Jr.,

Vice Admiral, U.S. Navy (Ret.), Under Secretary of Commerce for Oceans and Atmosphere.

[FR Doc. 03–18733 Filed 7–22–03; 8:45 am]

BILLING CODE 3510–08–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Defense Science Board Task Force on Patriot Systems Performance will meet in closed session on August 26–27, 2003, at SAIC, 4001 N. Fairfax Drive, Arlington, VA. The Task Force will assess the recent performance of the Patriot System in OPERATION IRAQI FREEDOM from deployment through use across the threat spectrum.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting, the Defense Science Board Task Force will: Assess logistical, doctrine, training, personnel management, operational and material performance; identify those lessons learned which are applicable to the development of the Medium Extended Air Defense System (MEADS); and assess the current planned spiral development of the Patriot to ensure early incorporation of fixes discovered in the lessons learned process.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that the Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, the meeting will be closed to the public.

Dated: July 16, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–18650 Filed 7–22–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting date change.

SUMMARY: On Thursday, June 19, 2003 (68 FR 36772), the Department of Defense announced closed meetings of the Defense Science Board Task Force on Enabling Joint Force Capabilities. The August 26, 2003, meeting has moved to September 8, 2003. The Task Force will meet at SAIC, 4001 N. Fairfax Drive, Arlington, VA.

Dated: July 11, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–18651 Filed 7–22–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Office of the Secretary is amending a system of records notice in its inventory of records systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a). The amended system of records notice reflects the agency's name change from the 'Defense Protective Service' to the 'Pentagon Force Protection Agency'.

DATES: The changes will be effective on August 22, 2003 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

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

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 15, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DWHS P42

SYSTEM NAME:

DPS Incident Reporting and Investigations Case Files (March 24, 1994, 59 FR 13938).

Changes

* * * * *

SYSTEM NAME:

Delete entry and replace with 'Pentagon Police Department Incident Reporting and Investigations Case Files'.

SYSTEM LOCATION:

Delete entry and replace with 'Pentagon Force Protection Agency, 9000 Defense Pentagon, Washington, DC 20301–9000.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Chief Information Officer, Pentagon Force Protection Agency, 9000 Defense Pentagon, Washington, DC 20301–9000'.

* * * * *

DWHS P42

SYSTEM NAME:

Pentagon Police Department Incident Reporting and Investigations Case Files.

SYSTEM LOCATION:

Pentagon Force Protection Agency, 9000 Defense Pentagon, Washington, DC 20301–9000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are the source of an initial complaint or allegation that a crime took place.

Witnesses having information or evidence about any aspect of an investigation.

Suspects in the criminal situation who are subjects of an investigation. Persons who may pose a threat to the Secretary of Defense, the Deputy Secretary of Defense and other Senior Defense Officials.

Persons who may pose a threat to the personal safety of themselves or others while in the Pentagon Force Protection Agency/Pentagon Police Department (PFPA/PPD) controlled jurisdiction.

Subjects of investigations on non-criminal matters.

Current and former applicants for the position of PFPA/PPD Officer.

Sources of information and evidence. The identity of these individuals may be confidential as appropriate to the subject matter they contribute. These files contain information vital to the outcome of administrative procedures and civil and criminal cases.

Individuals associated with terrorism or terrorist groups and activities and names of regional, nationwide, and worldwide terrorist organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Preliminary and other reports of criminal investigations from the opening of a case until it is closed. These records are instituted and maintained at varying points in the process. The processes of criminal justice and civil and administrative remedies may require their partial or total disclosure.

Security files contain information such as name, date and place of birth, address, Social Security Number, education, occupation, experience, and investigatory material. Contingency Planning/Analysis files contain information such as names and other identifying information and investigatory material on an individual associated with terrorists or terrorist groups and activities. File contains information about regional, nationwide, and worldwide terrorist organizations and their effects on security of DoD facilities under the jurisdiction of PFPA. Intelligence briefs; tactical, operational, and strategic informational reports; regional and nationwide contingency analysis; contingency action plans; and patterns and trends of potential or actual terrorists or terrorist groups, or other activities that could disrupt the orderly operation of Defense-owned or controlled facilities over which the PFPA has jurisdiction.

Documents created in enforcing regulations regarding motor vehicle movement and parking on Federal premises including reports of traffic accidents, traffic violation notices and similar records maintained by PFPA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 21, Internal Security Act of 1950 (Pub. L. 831, 81st Cong.); 40 U.S.C. 318, as delegated by Administrator, General Services Administration, to the Deputy Secretary of Defense, September 1987, and E.O. 9397 (SSN).

PURPOSE(S):

Information in this system supports the public safety, law enforcement, facility security, and contingency planning functions of the PFPA. Additional functions supported include information on current and former applicants for the position of PFPA/PPD Officer and Internal Affairs investigative records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To a Federal, state, local, or foreign agency responsible for investigating, prosecuting, enforcing, or carrying out a statute, rule, regulation, or order, where the agency is aware of a violation or potential violation of civil or criminal law or regulation.

To an appeal, grievance, or formal complaints examiner; equal employment opportunity investigator; arbitrator; exclusive representative; or other officials engaged in investigating, or settling a grievance, complaint or appeal filed by an employee.

To various bureaus and divisions of the Department of Justice that have primary jurisdiction over subject matter and location which PFPA shares.

To law enforcement agencies which have lawfully participated in and conducted investigation jointly with PFPA.

Pursuant to the order of a court of competent jurisdiction, when the United States is party to or has interest in litigation, and using the records is relevant, necessary, and compatible with the purposes of collecting the information.

To an insurance company of one or more parties when an insured is involved in an injury or accident in the PFPA jurisdiction and an Accident Report is required to resolve claims or to settle matters of record.

The DoD 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders in file cabinets. Magnetic media in controlled access areas for both on-line and storage disks.

RETRIEVABILITY:

Paper records by case control number and type of incident. Magnetic files by case control number, name, address, and physical description of subject individual.

SAFEGUARDS:

Paper records are stored in secure filing cabinets in room with built-in-position dial-type combination safe lock. Computer records are maintained in limited access sites on a system protected by a software-controlled password system.

RETENTION AND DISPOSAL:

Non-criminal records are destroyed one year after case is closed.

Criminal records are cutoff when case is closed and placed in an inactive file for three years. After three years in the inactive file, the records are retired to the Washington National Records Center for an additional 15 years, after which time they will be destroyed. Information on current and former applicants for position of PFPA/PPD Officer are maintained two years and then destroyed.

Contingency planning and analysis files pertaining to regional, nationwide, and worldwide terrorist organizations and their potential effects of the security of DoD facilities are destroyed when superseded, obsolete, or no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Information Officer, Pentagon Force Protection Agency, 9000 Defense Pentagon, Washington, DC 20301–9000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address inquiries to the Pentagon Force Protection Agency, 9000 Defense Pentagon, Washington, DC 20301–9000.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Pentagon Force Protection Agency, 9000 Defense Pentagon, Washington, DC 20301–9000.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Investigators, informants, witnesses, official records, investigative leads, statements, depositions, business records, or any other information source available to PFPA.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency, which performs as its principle function any activity pertaining to the enforcement of criminal laws. The criminal investigation case file and contingency planning and analysis file may be partially or totally subject to the general exemption.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c) and (e) and published in 32 CFR part 311. For additional information contact the system manager.

[FR Doc. 03–18644 Filed 7–22–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Office of the Secretary is proposing to alter an existing system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on August 22, 2003 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

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

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on July 9, 2003, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: July 15, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DPAD 12.0

SYSTEM NAME:

DoD National Media Pool and Pentagon Correspondent Files (December 17, 2001, 66 FR 64960).

Changes

SYSTEM NAME:

Delete 'National' from entry.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete 'National' from entry.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete 'National' from entry. Add to first paragraph 'No fault (''hold harmless'') legal contracts between DoD and media organizations as well as no-fault legal contracts between DoD and individual media representatives. Ground-rule agreements between DoD and individuals covering personal conduct before and during event. Certificates of background security clearance.'

* * * * *

RETENTION AND DISPOSAL:

Disposition pending. Until the National Archives and Records Administration has approved the retention and disposition of these records, treat records as permanent.

* * * * *

DPAD 12.0

SYSTEM NAME:

DoD Media Pool and Pentagon Correspondent Files.

SYSTEM LOCATION:

Office of the Assistant Secretary of Defense (Public Affairs), Directorate for Plans, Room 2D757, 1400 Defense Pentagon, Washington, DC 20301–1400 for Media Pool records.

Office of the Assistant Secretary of Defense (Public Affairs), Directorate of Defense Information, 1400 Defense Pentagon, Room 2E765, Washington, DC 20301–1400 for the Pentagon Correspondent records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian media representatives nominated by their respective bureaus to be members of the DoD Media Pool.

Pentagon correspondents who may conduct interviews with Pentagon executive level personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

DoD Media Pool files consist of accreditation and other questionnaires and forms soliciting the media representative's name, age, nationality, Social Security Number, office and home addresses and phone numbers, passport information, medical information, and person to be notified in an emergency effecting individual. No fault (''hold harmless'') legal contracts between DoD and media organizations as well as no-fault legal contracts between DoD and individual media representatives. Ground-rule agreements between DoD and individuals covering personal conduct before and during event. Certificates of background security clearance.

Pentagon correspondent files consist of their photographs and biographies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 138, Assistant Secretaries of Defense; and E.O. 9397 (SSN).

PURPOSE(S):

Media Pool Files are used to issue Pentagon building passes, Media Pool Press Passes, orders, to arrange foreign country clearances and visas, and to determine individual's suitability/preparedness for deployment with the media pool.

Pentagon correspondent records are used by Pentagon executive level personnel to provide a brief summary of the correspondent's professional experience and background.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and computerized electronic records.

RETRIEVABILITY:

Paper records are retrieved by individual's last name, Social Security Number, bureau, or organization. Electronic records are retrieved by last name, Social Security Number, and/or news organization.

SAFEGUARDS:

Records are accessed by authorized personnel with an official need-to-know who have been trained for handling Privacy Act information. Electronic records are accessible only by the Directorate of Defense Information administrative staff.

RETENTION AND DISPOSAL:

Disposition pending. Until the National Archives and Records Administration has approved the retention and disposition of these records, treat records as permanent.

SYSTEM MANAGER(S) AND ADDRESS:

For DoD Media Pool files: Office of the Assistant Secretary of Defense (Public Affairs), Directorate for plans, Room 2D757, 1400 Defense Pentagon, Washington, DC 20301–1400.

FOR PENTAGON CORRESPONDENT FILES:

Deputy Director, Directorate for Defense Information, Office of the Assistant Secretary of Defense (Public Affairs), 1400 Defense Pentagon, Room 2E765, Washington, DC 20301–1400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the appropriate System manager above.

The request should contain individual's full name, individual's Social Security Number, and bureau or organization where employed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the appropriate System manager above.

The request should contain individual's full name, individual's Social Security Number, and bureau or organization where employed.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Accreditation and other questionnaires and forms completed or provided by the individual and information provided by the individual's employer or bureau.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 03–18645 Filed 7–22–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Office of the Inspector General; Privacy Act of 1974; System of Records

AGENCY: Office of the Inspector General, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The Office of the Inspector General, DoD, is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 22, 2003, unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to Office of the Inspector General, Department of Defense, 400 Army Navy Drive, Room 223, Arlington, VA 22202–4704.

FOR FURTHER INFORMATION CONTACT: Mr. Darryl R. Aaron at (703) 604–9785.

SUPPLEMENTARY INFORMATION: The Office of the Inspector General, DoD, systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 16, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

CIG–11

SYSTEM NAME:

Budget Information Tracking System (BITS) (February 22, 1993, 58 FR 10213).

Changes

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Office of the Chief of Staff, Office of the Comptroller, Office of the Inspector General of the Department of Defense, 400 Army Navy Drive, Arlington, VA 22202–4704.'

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete from entry 'and Blanket Travel, employee training.' Move the records currently listed under Purpose, to this entry. Those records are 'individual's name, Social Security Number grade/rank and financial transaction document number'.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with 'Pub.L. 95–452, the Inspector General Act of 1978, as amended; 5 U.S.C. 301, Departmental Regulations; DoD 7000.14–R, DoD Financial Management Regulation; DoD Directive 5106.1, Inspector General of the Department of Defense, Organization and Functions Guide; OIG DoD Instruction 7200.1, Budget and Fund Control; OIG DoD Instruction 7250.13, Official Representation Funds; and E.O. 9397 (SSN).'

PURPOSE(S):

Delete entry and replace with 'Information is used in determining current year execution and future budgetary requirements for the OIG as follows:

a. Tracking temporary duty travel costs.

b. Tracking Permanent Change of Station costs.

c. Maintain spreadsheets maintained by Human Resource Training/purchase cardholders.

d. Tracking cash award costs.'

* * * * *

RETRIEVABILITY:

Records are retrieved by the individual's financial transaction document number. A specified data element or a combination thereof contained in this system of records are used for accessing information.

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are maintained for current fiscal year. Destroy 6 years and 3 months after the close of the fiscal year.'

* * * * *

CIG–11

SYSTEM NAME:

Budget Information Tracking System (BITS).

SYSTEM LOCATION:

Office of the Chief of Staff, Office of the Comptroller, Office of the Inspector General of the Department of Defense, 400 Army Navy Drive, Arlington, VA 22202–4704.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Office of the Inspector General (OIG) employees who participate in OIG Travel, Permanent Change of Station, Awards, and Training.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number, grade and or rank, financial transaction document number, and the cost records of the OIG employees who have been approved for Temporary Duty; Permanent Change of Station (PCS); and an employee cash award.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95–452, the Inspector General Act of 1978, as amended; 5 U.S.C. 301, Departmental Regulations; DoD 7000.14-R, DoD Financial Management Regulation; DoD Directive 5106.1, Inspector General of the Department of Defense, Organization and Functions Guide; OIG DoD Instruction 7200.1, Budget and Fund Control; OIG DoD Instruction 7250.13, Official Representation Funds; and E.O. 9397 (SSN).

PURPOSE(S):

Information is used in determining current year execution and future budgetary requirements for the OIG as follows:

a. Tracking temporary duty travel costs.

b. Tracking Permanent Change of Station costs.

c. Maintain spreadsheets maintained by Human Resources Training/purchase cardholders.

d. Tracking cash award costs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the OIG's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and or binders and on electronic storage media or a combination thereof.

RETRIEVABILITY:

Records are retrieved by the individual's financial transaction document number. A specified data element or a combination thereof contained in this system of records are used for accessing information.

SAFEGUARDS:

Access to the system is protected/restricted through the use of assigned user identification/passwords for entry into system modules.

RETENTION AND DISPOSAL:

Records are maintained for current fiscal year. Destroy 6 years and 3 months after the close of the fiscal year.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, Office of the Chief of Staff, Office of the Inspector General of the Department of Defense, 400 Army Navy Drive, Arlington, VA 22202–4704.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Chief, Freedom of Information Act/Privacy Act Office, 400 Army Navy Drive, Arlington, VA 22202–4704.

The request should contain the full name, address, and Social Security Number of the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Chief, Freedom of Information Act/Privacy Act Office, 400 Army Navy Drive, Arlington, VA 22202–4704.

The request should contain the full name, address, and Social Security Number of the individual.

CONTESTING RECORD PROCEDURES:

The OIG's rules for accessing records and for contesting contents and appealing initial agency determinations are published in 32 CFR part 312 or may be obtained from the system manager.

RECORD SOURCE CATEGORIES

Data maintained in the system is obtained directly from the individual on the following forms:

a. Request to Temporary Duty Travel Form, provided to the Travel Section with information obtained from the individual traveler;

b. Request for Permanent Change of Station Form, provided by the Personnel and Security Directorate and Travel Section with information obtained from the individual;

c. Request for Training Form, provided by the Training Officer within each segment of the Office of the Assistant Inspector General with information obtained from the individual; and

d. Incentive Awards Nomination and Action Form, provided by the Personnel and Security Directorate with information obtained from an individual's supervisor and personnel records. To the extent that a follow-up to resolve discrepancies is required, information is collected directly from the individual or the appropriate office within the Office of the Inspector General on Department of Defense (DD) Forms 1610 and 1614, Standard Form 182, and IG Form 1400.430–3.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 03–18648 Filed 7–22–03; 8:45 am]

BILLING CODE 5001–08–U

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The Department of the Army is amending one system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 22, 2003 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Act Office, U.S. Army Records Management and Declassification Agency, ATTN:

TAPC–PDD–FP, 7798 Cissna Road, Suite 205, Springfield, VA 22153–3166.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–7137/DSN 656–7137.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 16, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

AAFES 0410.01

SYSTEM NAME:

Employee Travel Files (August 9, 1996, 61 FR 41580).

Changes

* * * * *

STORAGE:

Delete entry and replace with 'Paper records in locked filing cabinets and on electronic storage media.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Paper records are destroyed after imaging and imaged documents are maintained for 7 years.'

* * * * *

AAFES 0410.01

SYSTEM NAME:

Employee Travel Files.

SYSTEM LOCATION:

Headquarters, Army and Air Force Exchange Service, 3911 S. Walton Walker Boulevard, Dallas, TX 75236–1598; Commander, AAFES Europe, Unit 24580, APO AE 09245–4580; Commander, AAFES Pacific Rim Region, Unit 35163, APO AP 96378–5163; and Base on post exchange within the AAFES system. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Army and Air Force Exchange Service (AAFES) authorized to perform official travel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents pertaining to travel of persons on official Government business, and/or their dependents, including but not limited to travel assignment orders, authorized leave en route, availability of quarters and/or shipment of household goods and personal effects, application for passport/visas; security clearance; travel expense vouchers; and similar related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army and 8013; Army Regulation 215–1, The Administration of Morale, Welfare, and Recreation Activities and Non-appropriated Fund Instrumentalities; Army Regulation 60–20, Army and Air Force Exchange Service Operating Policies; and E.O. 9397 (SSN).

PURPOSE(S):

To process official travel requests for military and civilian employees of the Army and Air Force Exchange Service; to determine eligibility of individual's dependents to travel; to obtain necessary clearance where foreign travel is involved, including assisting individual in applying for passports and visas and counseling where proposed travel involves visiting/transiting communist countries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to attaché or law enforcement authorities of foreign countries.

To the U.S. Department of Justice or Department of Defense legal/intelligence/investigative agencies for security, investigative, intelligence, and/or counterintelligence operations.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in locked filing cabinets and on electronic storage media.

RETRIEVABILITY:

By employee's surname.

SAFEGUARDS:

Information is accessed only by designated individuals having official need therefore in the performance of their duties.

RETENTION AND DISPOSAL:

Paper records are destroyed after imaging and imaged documents are maintained for 7 years.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, 3911 S. Walton Walker Boulevard, Dallas, TX 75236–1598.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Director, Administrative Services Division, 3911 S. Walton Walker Boulevard, Dallas, TX 75236–1598.

Individual should provide full name, Social Security Number, current address and telephone number, details of travel authorization/clearance documents sought, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Director, Administrative Services Division, 3911 S. Walton Walker Boulevard, Dallas, TX 75236–1598.

Individual should provide full name, Social Security Number, current address and telephone number, details of travel authorization/clearance documents sought, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, official travel orders, travel expense vouchers, receipts and similar relevant documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 03–18647 Filed 7–22–03; 8:45 am]

BILLING CODE 5001–08–U

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Defense Logistics Agency proposes to add a system of records notice to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on August 22, 2003 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–B, 8725 John J. Kingman Road, Suite 2533, Fort Belvior, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on July 9, 2003, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: July 15, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S700.20

SYSTEM NAME:

Passport, Visa, and Country Clearance Files.

SYSTEM LOCATION:

Records are located at the offices of authorized passport agents at Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221, and DLA field units. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Defense Logistics Agency (DLA) civilian employees, military members, and other individuals who travel to overseas locations under DLA sponsorship.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records include name; Social Security Number; nationality; date and place of birth; security clearance; travel itinerary; and applications for passports, visas, and theater and country clearances, including supporting documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 5702 *et seq.*, Travel, Transportation and Subsistence; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 22 U.S.C., Chapter 4, Passports; DoD Regulation 1000.21, Passport and Visa Application Procedures; and E.O. 9397 (SSN).

PURPOSE(S):

Information is being collected and maintained to comply with requirements to gain clearances and approvals to travel to, or within, foreign countries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To officials and employees of other departments and agencies of the Executive Branch of government for purposes of securing passports or other required clearances.

To Foreign embassies, legations, and consular offices where visas or country entrance clearances are required.

To commercial carriers providing transportation to individuals whose applications are processed through this system of records.

The DoD 'Blanket Routine Uses' set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper and electronic format.

RETRIEVABILITY:

Records are retrieved by name, Social Security Number, passport, or clearance request number.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas is restricted by the use of locks, guards, and administrative procedures. Access to personal information is limited to those who require the records in the performance of their official duties. Access to personal information is further restricted by the use of passwords, which are changed periodically. Records are secured in locked or guarded buildings, locked offices, or locked cabinets during non-duty hours.

RETENTION AND DISPOSAL:

Application files and related papers are destroyed when 3 years old or upon separation of the bearer, whichever is sooner. Official passports are returned to the Department of State upon expiration or upon separation of the employee.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Director, DLA Support Services, Business Management Office, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221, and the heads of DLA field activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Officer, Defense Logistics Agency, ATTN: DSS-B, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221, or the Privacy Act Officer of the particular DLA activity involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Individuals must supply the name of the DLA facility or activity where employed at the time the papers were created or processed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained

in this system of records should address written inquiries to the Privacy Act Officer, Defense Logistics Agency, ATTN: DSS–B, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221, or the Privacy Act Officer of the particular DLA activity involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Individuals must supply the name of the DLA facility or activity where employed at the time the papers were created or processed.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–B, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Data is obtained from the individual; existing files; the State Department and other agencies of the Executive Branch, including agency components; foreign embassies, legations, and consular offices; and transportation carriers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 03–18646 Filed 7–22–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Partially Exclusive License; Phase IV Engineering, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy gives notice of its intent to grant Phase IV Engineering, Inc., a revocable, nonassignable, partially exclusive license, with exclusive fields of use in commercial transportation and logistics, law enforcement, private security, highway and road safety, facility HVAC, in the United States to practice the Government-owned invention, U.S. Patent Application Serial Number 10/021,700 entitled ''Micromechanical Shock Sensor.''

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than August 8, 2003.

ADDRESSES: Written objections are to be filed with Indian Head Division, Naval Surface Warfare Center, Code OC4, 101 Strauss Avenue, Indian Head, MD 20640–5035.

FOR FURTHER INFORMATION CONTACT: Dr. J. Scott Deiter, Head, Technology Transfer Office, Naval Surface Warfare Center Indian Head Division, Code 05T, 101 Strauss Avenue, Indian Head, MD 20640–5035, telephone (301) 744–6111.

Dated: July 10, 2003.

E.F. McDonnell,

Major, U.S. Marine Corps, Federal Register Liaison Officer.

[FR Doc. 03–18683 Filed 7–22–03; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Partially Exclusive License; Unique Technologies, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy gives notice of its intent to grant Unique Technologies, Inc., a revocable, nonassignable, partially exclusive license, with exclusive fields of use in law enforcement, private security, and entertainment, in the United States to practice the Government-owned invention, U.S. Patent Application Serial Number 10/318,672 entitled ''Non-Lethal Flash Grenade.''

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than August 8, 2003.

ADDRESSES: Written objections are to be filed with Indian Head Division, Naval Surface Warfare Center, Code OC4, 101 Strauss Avenue, Indian Head, MD 20640–5035.

FOR FURTHER INFORMATION CONTACT: Dr. J. Scott Deiter, Head, Technology Transfer Office, Naval Surface Warfare Center Indian Head Division, Code 05T, 101 Strauss Avenue, Indian Head, MD 20640–5035, telephone (301) 744–6111.

Dated: July 10, 2003.

E.F. McDonnell,

Major, U.S. Marine Corps, Federal Register Liaison Officer.

[FR Doc. 03–18684 Filed 7–22–03; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

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

DATES: Interested persons are invited to submit comments on or before August 22, 2003.

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

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

Dated: July 18, 2003.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information, Officer.

Federal Student Aid

Type of Review: Extension.

Title: National Student Loan Data System (NSLDS).

Frequency: On occasion, Weekly, Monthly, Quarterly.

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: 29,952.

Burden Hours: 179,712.

Abstract: The U.S. Department of Education collects data from postsecondary schools and guaranty agencies about Federal Perkins loans, Federal family education loans, and William D. Ford direct student loans to be used to determine eligibility for Title IV student financial aid.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2311. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *Vivan.Reese@ed.gov.* Requests may also be electronically mailed to the 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 Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–18709 Filed 7–22–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2069–007 Arizona]

Childs-Irving Hydroelectric Project; Notice of Telephone Conference

July 17, 2003.

a. *Date and Time of Telephone Conference*: August 7, 2003, at 2 p.m. EST

b. *FERC Contact:* Frank Winchell at (202) 502–6104.

c. *Purpose of the Telephone Conference*: The Federal Energy Regulatory Commission, Advisory Council on Historic Preservation, Arizona State Historic Preservation Office, USDA Forest Service, Yavapai-Apache, Hopi Tribe, and the Arizona Public Service Company intend to discuss the Final Memorandum of Agreement and Associated Revised Historic Properties Management Plan Involving the Childs-Irving Hydroelectric Project.

d. If you want to participate by telephone, please contact Frank Winchell at the number listed above no later than July 31, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–18775 Filed 7–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC03–106–000, et al.]

Mobile Energy Services Company. LLC, et al.; Electric Rate and Corporate Filings

July 17, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Mobile Energy Services Company, LLC

[Docket No. EC03–106–000 Mobile Energy Services Holdings, Inc.]

Take notice that on July 11, 2003, Mobile Energy Services Company, LLC and Mobile Energy Services Holdings, Inc. (jointly the Applicants) filed with the Federal Energy Regulatory Commission (Commission), an application for authorization of the disposition of jurisdictional facilities to certain creditors under a proposed plan of reorganization in connection with bankruptcy proceedings, pursuant to Section 203 of the Federal Power Act, 16 U.S.C. 824(b)(2002), and a request for expedited approval and waiver of various provisions of the regulations.

Comment Date: August 1, 2003.

2. UNS Electric, Inc.

[Docket No. ER03–1064–000]

Take notice that on July 14, 2003, UNS Electric, Inc. (UNS Electric) filed an application requesting acceptance of (1) The Open Access Transmission Tariff of UNS Electric, Inc.; (2) a Non-firm Interchange Agreement between UNS Electric, Inc. and Aha Macav Power Service; (3) an Interchange Agreement between El Paso Electric Company and UNS Electric, Inc.; and (4) an Interconnection Agreement between Nevada Power Company and UNS Electric, Inc. UNS Electric states that the tariff and agreements will be transferred to UNS Electric as a result of the Commission-approved transfer of certain electric assets from Citizens Communications Company to UniSource Energy Corporation, UNS Electric's corporate parent. *See* Tucson Elec. Power Co., 103 FERC ¶ 62,100.

Comment Date: August 4, 2003.

3. Cleco Power LLC

[Docket No. ER03–1065–000]

Take notice that on July 14, 2003, Cleco Power LLC tendered for filing a Second Revised Service Agreement No. 66, under FERC Electric Tariff Original Volume No. 1. Cleco Power LLC states that the filing reflects revisions to the agreement made in section 1.3, Commercial Operation Date. Cleco Power LLC also states that the original Commercial Operation Date of November 1, 2004 has been revised to reflect a later date of June 1, 2005.

Comment Date: August 4, 2003.

4. The Dayton Power and Light Company

[Docket No. ER03–1066–000]

Take notice that on July 14, 2003, The Dayton Power and Light Company (Dayton), tendered for filing an Amendment to Interconnection Agreement with DPL Energy, LLC.

Comment Date: August 4, 2003.

5. Santa Rosa Energy LLC

[Docket No. ER03–1067–000]

Take notice that on July 14, 2003, Santa Rosa Energy LLC filed a Notice of Cancellation of its Rate Schedule FERC No. 1.

Comment Date: August 4, 2003.

6. Cinergy Services, Inc.

[Docket No. ER03–1068–000]

Take notice that on July 14, 2003, Cinergy Services, Inc., on behalf of The Cincinnati Gas & Electric Company (CG&E), tendered for filing a Notice of Cancellation of CG&E's FERC Electric Tariff, First Revised Volume No. 1, Rate WH–1, Rate Schedule No. 4.

Comment Date: August 4, 2003.

7. Cinergy Services, Inc.

[Docket No. ER03–1069–000]

Take notice that on July 14, 2003, Cinergy Services, Inc., on behalf of The Cincinnati Gas & Electric Company (CG&E), tendered for filing a Notice of

Cancellation of CG&E's FERC Electric Tariff, First Revised Volume No. 1, Rate WS-P, Rate Schedule No. 5.

Comment Date: August 4, 2003.

8. Cinergy Services, Inc.

[Docket No. ER03–1070–000]

Take notice that on July 14, 2003, Cinergy Services, Inc., on behalf of The Cincinnati Gas & Electric Company (CG&E), tendered for filing a Notice of Cancellation of CG&E's FERC Electric Tariff, First Revised Volume No. 1, Rate WS-S, Rate Schedule No. 6.

Comment Date: August 4, 2003.

9. Cinergy Services, Inc.

[Docket No. ER03–1071–000]

Take notice that on July 14, 2003, Cinergy Services, Inc., on behalf of The Union Light, Heat and Power Company (ULH&P), tendered for filing a Notice of Cancellation of ULH&P's FERC Electric Tariff, Original Volume No. 1, Rate WS-S, Rate Schedule No. 4.

Comment Date: August 4, 2003.

10. New England Power Pool

[Docket No. ER03–1072–000]

Take notice that on July 15, 2003, the New England Power Pool (NEPOOL) submitted the Ninety-Eighth Agreement Amending New England Power Pool Agreement, which modifies Attachments L, N, and O of the Restated NEPOOL Open Access Transmission Tariff (the NEPOOL Tariff), the Financial Assurance Policy for NEPOOL Members, the NEPOOL Billing Policy, and the Financial Assurance Policy for Non-Participant Financial Transmission Rights Customers and Non-Participant Demand Response Providers (collectively, the Policies). NEPOOL states that the changes to the Policies (i) Change the timing of suspension of a Non-Municipal Participant that fails to provide adequate financial assurance; and (ii) change the Policies so that the suspension provisions more precisely reflect how the NEPOOL Markets operate under Standard Market Design in New England. A September 15, 2003 effective date is requested for these changes.

NEPOOL states that copies of these materials were sent to the NEPOOL Participants, Non-Participant Transmission Customers and the New England state governors and regulatory commissions.

Comment Date: August 5, 2003.

11. Florida Power & Light Company

[Docket Nos. ER03–1074–000]

Take notice that on July 15, 2003, Florida Power & Light Company (FPL) filed with the Federal Energy Regulatory Commission the First Revised Rate Schedule No. 23, which is the Contract for Interchange Service between FPL and Tampa Electric Corporation (Tampa Electric).

FPL states that a copy of this filing has been served on Tampa Electric and the Florida Public Service Commission.

Comment Date: August 5, 2003.

12. Cinergy Services, Inc.

[Docket No. ER03–1075–000]

Take notice that on July 14, 2003, Cinergy Services, Inc., on behalf of The Cincinnati Gas & Electric Company (CG&E), tendered for filing a Notice of Cancellation of CG&E's F.E.R.C. Electric Tariff, First Revised Volume No. 1, Rider F, Rate Schedule No. 7A.

Comment Date: August 4, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–18772 Filed 7–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC03–107–000, et al.]

Northern Electric Power Co. L.P., et al.; Electric Rate and Corporate Filings

July 16, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Northern Electric Power Co., L.P., Adirondack Hydro-Fourth Branch LLC, NYSD Limited Partnership, Sissonville Limited Partnership and Warrensburg Hydro Power Limited Partnership

[Docket No. EC03–107–000]

Take notice that on July 11, 2003, Black Hills Generation, Inc. (Black Hills Generation), on behalf of certain of its subsidiaries and affiliates, together with Hamptons Power LLC (Hamptons), as sellers (collectively, Sellers), and BPIF LLC and Boralex New York Inc. (collectively, Buyers), tendered for filing with the Federal Energy Regulatory Commission (Commission), an application pursuant to section 203 of the Federal Power Act requesting authorization from the Federal Energy Regulatory Commission for Sellers to transfer to Buyers their interests in Northern Electric Power Co., L.P., Adirondack Hydro-Fourth Branch LLC, NYSD Limited Partnership, Sissonville Limited Partnership, and Warrensburg Hydro Power Limited Partnership.

Comment Date: August 1, 2003.

2. Calpine Newark, LLC

[Docket No. EG03–82–000]

Take notice that on July 14, 2003, Calpine Newark, LLC (Calpine Newark), c/o Calpine Corporation Eastern Region Office, The Pilot House, 2nd Floor, Lewis Wharf, Boston, MA 02110, filed with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Calpine Newark states that it is a Delaware limited liability company and a wholly owned subsidiary of Calpine Cogeneration Corporation. Calpine Newark further states that it owns a 52 MW cogeneration facility located in Newark, New Jersey and sells the output of the facility at wholesale.

Newark states that copies of the application were served upon the Securities and Exchange Commission, New Jersey Board of Public Utilities,

Colorado Public Utilities Commission, Kansas Corporation Commission, Michigan Public Service Commission, Minnesota Public Utilities Commission, New Mexico Public Regulation Commission, North Dakota Public Service Commission, Oklahoma Corporation Commission, South Dakota Public Utilities Commission, Texas Public Utility Commission, Wisconsin Public Service Commission, and Wyoming Public Service Commission.

Comment Date: August 6, 2003.

3. Idaho Power Company

[Docket Nos. ER03–487–003 and ER03–488–003]

Take notice that on July 11, 2003, Idaho Power Company submitted a filing in compliance with the Commission's March 31, 2003 Order, 102 FERC ¶ 61,351 in Docket Nos. ER03–487–002 and ER03–488–002.*Comment Date:* August 1, 2003.

4. Sierra Pacific Industries

[Docket No. ER03–860–002]

Take notice that on July 11, 2003, Sierra Pacific Industries (SPI), filed with the Federal Energy Regulatory Commission a second errata to its May 21 application for approval of its initial tariff (FERC Electric Tariff Original Volume No. 1), and for blanket approval for market-based rates pursuant to part 35 of the Commission's regulations. SPI requests a shortened notice period for this errata. SPI also states that the purpose of the second errata is to reflect the creation of a subsidiary, Sierra Pacific Energy, LLC, (SPE) that will undertake power marketing pursuant to the authority requested in this application.

SPE states that it seeks blanket market-based rate authority as well as the waiver of those Commission rules generally granted to power marketers. SPI also states that it is a California corporation.

Comment Date: July 25, 2003.

5. Tri-State Power, LLC

[Docket No. ER03–1056–000]

Take notice that on July 10, 2003, Tri-State Power, LLC tendered for filing a Notice of Cancellation of its power sales contracts in accordance with 18 CFR 35.15'' and the Commission's Order Authorizing Disposition of Jurisdictional Facilities issued June 12, 2003.

Comment Date: July 31, 2003.

6. Gulf Power Company

[Docket No. ER03–1059–000]

Take notice that on July 11, 2003, Gulf Power Company, filed a Notice of Cancellation of the portions of the Interconnection Agreement dated August 1, 1985 between Alabama Electric Cooperative, Inc. and Gulf Power Company (Gulf Power Company's Rate Schedule FERC No. 82) that pertain to the supply of emergency service. Gulf Power Company states that this cancellation was made pursuant to a bilateral amendment to the Interconnection Agreement.

Comment Date: August 1, 2003.

7. Carolina Power & Light Company

[Docket No. ER03–1060–000]

Take notice that on July 11, 2003, Carolina Power & Light Company (CP&L) tendered for filing a Notice of Termination of a Facility Interconnection and Operating Agreement (IOA) between CP&L and Dominion Person, Inc. (Dominion). CP&L states that termination of the IOA has been mutually agreed to by CP&L and Dominion.

Comment Date: August 1, 2003.

8. PJM Interconnection, L.L.C.

[Docket No. ER03–1061–000]

Take notice that on July 11, 2003, PJM Interconnection, L.L.C. (PJM), submitted for filing three interim interconnection service agreements (Interim ISAs) between PJM and Conectiv Delmarva Generation, Inc., Armstrong Energy Limited Partnership, L.L.L.P., and Handsome Lake Energy L.L.C. and three notices of cancellation of certain Interim ISAs that have been superseded.

PJM requests a waiver of the Commission's 60-day notice requirement to permit the effective dates agreed to by the parties to the agreements. PJM states that copies of this filing were served upon the parties to the agreements and the state regulatory commissions within the PJM region.

Comment Date: August 1, 2003.

9. Citadel Energy Products LLC

[Docket No. ER03–1062–000]

Take notice that on July 11, 2003, Citadel Energy Products LLC (CEP) filed with the Federal Energy Regulatory Commission (Commission) an amendment to the Western Systems Power Pool (WSPP) Agreement. CEP states that this amendment revises the WSPP Agreement to list CEP as a member of the WSPP. CEP requests that the Commission allow the amendment to become effective July 11, 2003.

CEP states that a copy of this filing has been served upon Michael Small, General Counsel to the Western Systems Power Pool; Steve Norris, Arizona Public Service Company; Ricky Bittle, Chair of the WSPP Executive Committee; and Bobby J. Campo, Chair of the WSPP Operating Committee.

Comment Date: August 1, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number 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. 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.

Magalie R. Salas,

Secretary.

[FR Doc. 03–18773 Filed 7–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12423–000 Idaho]

American Falls Reservoir District No. 2, Big Wood Canal Company; Notice of Availability of Environmental Assessment

July 17, 2003.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy

Projects has reviewed the application for license for the Lateral 993 Hydroelectric Project and has prepared an Environmental Assessment (EA) for the project. The project is located at the juncture of the 993 Lateral and North Gooding Main Canal, Boise Meridian, 20 miles northwest of the Town of Shoshone, Lincoln County, Idaho. The initial diversion is the Milner Dam on the Snake River. The North Gooding Main Canal is part of a U.S. Bureau of Land Management (BLM) project. The project would occupy 17 acres of Federal land managed by the BLM.

The EA contains the Staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The EA is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659.

For further information, contact Allison Arnold at (202) 502–6346.

Magalie R. Salas,

Secretary.

[FR Doc. 03–18774 Filed 7–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Meeting, Notice of Vote, Explanation of Action Closing Meeting and List of Persons to Attend

July 17, 2003.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: July 24, 2003, 9:30 a.m.

PLACE: Room 3M 4A/B, 888 First Street, NE., Washington, DC 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Non-Public Investigations and Inquiries and Enforcement Related Matters.

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary; Telephone (202) 502–8400.

Chairman Wood and Commissioners Massey and Brownell voted to hold a closed meeting on July 24, 2003. The certification of the General Counsel explaining the action closing the meeting is available for public inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426.

The Chairman and the Commissioners, their assistants, the Commission's Secretary and her assistant, the General Counsel and members of her staff, and a stenographer are expected to attend the meeting. Other staff members from the Commission's program offices who will advise the Commissioners in the matters discussed will also be present.

Magalie R. Salas,

Secretary.

[FR Doc. 03–18783 Filed 7–18–03; 5:11 pm]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act; Notice

July 16, 2003.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: July 23, 2003, 10 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*__Note__—Items listed on the Agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary, telephone (202) 502–8400. For a recording listing items stricken from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the Agenda; however, all public documents may be examined in the Reference and Information Center.

836th—Meeting July 23, 2003, Regular Meeting, 10 a.m.

ADMINISTRATIVE AGENDA

A–1.
DOCKET# AD02–1, 000, Agency Administrative Matters

A–2.
DOCKET# AD02–7, 000, Customer Matters, Reliability, Security and Market Operations

A–3.
Western Energy Infrastructure Conference

MARKETS, TARIFFS AND RATES—ELECTRIC

E–1.
DOCKET# RM02–1, 000, Standardization of Generator Interconnection Agreements and Procedures

E–2.
DOCKET# RM02–12, 000, Standardization of Small Generator Interconnection Agreements and Procedures

E–3.
OMITTED

E–4.
DOCKET# EL03–23, 000, Pacer Power LLC

E–5.
DOCKET# EL02–111, 000, Midwest Independent Transmission System Operator, Inc., *et al.*

E–6.
DOCKET# EL03–17, 000, Investigation of Certain Enron-Affiliated QF's
OTHER#S QF87–365, 005, Zond Windsystems Holding Company
QF90–43, 004, Victory Garden Phase IV Partnership
QF91–59, 005, Sky River Partnership and Zond Windsystems Partners, Ltd., Series 85–A
EL03–19, 000, *Southern California Edison Company* v. *Enron Generating Facilities*:
QF90–43, 005, Victory Garden Phase IV Partnership
QF91–59, 006, Sky River Partnership
QF95–186, 005, Cabazon Power Partners LLC,
QF85–687, 002, Zond Windsystems Partners, Ltd., Series 85–A
QF85–686, 002, Zond Windsystems Partners, Ltd., Series 85–B
ER03–521, 000, Cabazon Power Partners LLC
ER03–522, 000, Enron Wind Systems, LLC
ER03–523, 000, Zond Windsystem Partners, Ltd., Series 85–A
ER03–524, 000, Zond Windsystem Partners, Ltd., Series 85–B
ER03–525, 000, Sky River Partnership
ER03–526, 000, Victory Garden Phase IV Partnership
ER03–527, 000, ZWHC LLC
ER03–528, 000, Painted Hills Wind Developers

E–7.
DOCKET# EL02–113, 002, El Paso Electric Company, Enron Power Marketing, Inc. and Enron Capital and Trade Resource Corporation
OTHER#S EL02–113, 000, El Paso Electric Company, Enron Power Marketing, Inc. and Enron Capital and Trade Resource Corporation

E–8.
DOCKET# ER03–563, 002, Devon Power Company, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC and NRG Power Marketing, Inc.
OTHER#S ER03–563, 003, Devon Power Company, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC and NRG Power Marketing, Inc.

ER03–563, 004, Devon Power Company, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC and NRG Power Marketing, Inc.
ER03–563, 005, Devon Power Company, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC and NRG Power Marketing, Inc.
ER03–563, 006, Devon Power Company, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC and NRG Power Marketing, Inc.
ER03–563, 007, Devon Power Company, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC and NRG Power Marketing, Inc.
ER03–563, 008, Devon Power Company, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC and NRG Power Marketing, Inc.
ER03–563, 009, Devon Power Company, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC and NRG Power Marketing, Inc.
ER03–563, 010, Devon Power Company, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC and NRG Power Marketing, Inc.

E–9.
DOCKET# ER03–559, 002, Automated Power Exchange, Inc.

E–10.
DOCKET# RT01–2, 005, PJM Interconnection L.L.C., Allegheny Electric Cooperative, Inc., Atlantic City Electric Company, Baltimore Gas & Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, PPL Electric Utilities Corporation, Potomac Electric Power Company, Public Service Electric & Gas Company and UGI Utilities Inc.
OTHER#S RT01–2, 006, PJM Interconnection L.L.C., Allegheny Electric Cooperative, Inc., Atlantic City Electric Company, Baltimore Gas & Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, PPL Electric Utilities Corporation, Potomac Electric Power Company, Public Service Electric & Gas Company and UGI Utilities Inc.
RT01–2, 007, PJM Interconnection L.L.C., Allegheny Electric Cooperative, Inc., Atlantic City Electric Company, Baltimore Gas & Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, PPL Electric Utilities Corporation, Potomac Electric Power Company, Public Service Electric & Gas Company and UGI Utilities Inc.
RT01–2, 008, PJM Interconnection L.L.C., Allegheny Electric Cooperative, Inc., Atlantic City Electric Company, Baltimore Gas & Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, PPL Electric Utilities Corporation, Potomac Electric Power Company, Public Service Electric & Gas Company and UGI Utilities Inc.
ER03–738, 001, Allegheny Power System Operating Companies: Monongahela Power Company, Potomac Edison Company and West Penn Power Company, all d/b/a Allegheny Power Atlantic City Electric Company; Delmarva Power & Light Company, Baltimore Gas & Electric Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, PECO Energy Company, PPL Electric Utilities Corporation, Potomac Electric Power Company, Public Service Electric & Gas Company, Rockland Electric Company and UGI Utilities Inc.

E–11.
DOCKET# EL03–125, 000, *TransAlta Energy Marketing (U.S.) Inc.* v. *Bonneville Power Administration*

E–12.
DOCKET# ER03–902, 000, Commonwealth Edison Company

E–13.
DOCKET# ER03–901, 000, Midwest Independent Transmission System Operator, Inc.

E–14.
DOCKET# ER03–896, 000, Southwest Power Pool, Inc.

E–15.
DOCKET# ER03–697, 000, PacifiCorp

E–16.
DOCKET# ER03–854, 000, ISO New England Inc.
OTHER#S ER03–854, 001, ISO New England Inc.

E–17.
DOCKET# ER03–453, 000, Allegheny Power System, Inc.

E–18.
DOCKET# ER98–3760, 008, California Independent System Operator Corporation
OTHER#S EC96–19, 059, Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company
ER96–1663, 062, Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company

E–19.
DOCKET# ER03–407, 002, California Independent System Operator Corporation
OTHER#S ER03–407, 003, California Independent System Operator Corporation

E–20.
OMITTED

E–21.
DOCKET# EL01–63, 004, PJM Interconnection, L.L.C.

E–22.
DOCKET# ER02–653, 002, PacifiCorp

E–23.
OMITTED

E–24.
OMITTED

E–25.
DOCKET# EF00–2012, 000, Bonneville Power Administration
OTHER#S EF00–2012, 001, Bonneville Power Administration

E–26.
OMITTED

E–27.
OMITTED

E–28.
DOCKET# ER03–379, 002, Southern Company Services, Inc.
OTHER#S ER03–379, 001, Southern Company Services, Inc.

E–29.
DOCKET# ER03–407, 001, California Independent System Operator Corporation

E–30.
DOCKET# EL03–50, 001, *Powerex Corporation* v. *California Power Exchange Corporation*

E–31.
DOCKET# EL02–121, 003, *Occidental Chemical Corporation* v. *PJM Interconnection, L.L.C. and Delmarva Power & Light Company*
OTHER#S EL02–121, 004, *Occidental Chemical Corporation* v. *PJM Interconnection, L.L.C. and Delmarva Power & Light Company*

E–32.
DOCKET# EL02–91, 001, *Williams Energy Marketing & Trading Company* v. *Southern Company Services, Inc.*

E–33.
DOCKET# ER02–2233, 005, Ameren Services Company, First Energy Corp., Northern Indiana Public Service Company, National Grid USA and Midwest Independent Transmission System Operator, Inc.
OTHER#S ER02–2233, 004, Ameren Services Company, First Energy Corp., Northern Indiana Public Service Company, National Grid USA and Midwest Independent Transmission System Operator, Inc.

E–34.
DOCKET# EL02–63, 002, *Constellation Power Source, Inc.* v. *California Power Exchange Corporation*

E–35.
DOCKET# PA02–2, 009, Fact-Finding Investigation into Possible Manipulation of Electric and Natural Gas Prices

E–36.
DOCKET# ER03–86, 003, Midwest Independent Transmission System Operator, Inc.

E–37.
OMITTED

E–38.
DOCKET# ER03–83, 003, TRANSLink Development Company, LLC

E–39.
DOCKET# ER03–601, 001, San Diego Gas & Electric Company

E–40.
DOCKET# EL03–130, 000, *MidAmerican Energy Company* v. *Mid-Continent Area Power Pool*

E–41.
OMITTED

E–42.
OMITTED

E–43.
OMITTED
E–44.
DOCKET# EL03–128, 000, D.E. Shaw Plasma Power, L.L.C.
E–45.
DOCKET# EL03–54, 000, *Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California and City of Vernon, California* v. *California Independent System Operator Corporation*
E–46.
DOCKET# ER99–2326, 000, Pacific Gas and Electric Company
OTHER#S EL99–68, 000, Pacific Gas and Electric Company
E–47.
DOCKET# ER98–997, 000, California Independent System Operator Corporation
OTHER#S ER98–997, 002, California Independent System Operator Corporation
ER98–1309, 000, California Independent System Operator Corporation
ER02–2297, 001, California Independent System Operator Corporation
ER02–2298, 001, California Independent System Operator Corporation
E–48.
OMITTED
E–49.
DOCKET# ER99–28, 003, Sierra Pacific Power Company
OTHER#S EL99–38, 002, Sierra Pacific Power Company
ER99–945 002 Sierra Pacific Power Company
E–50.
DOCKET# ER03–978, 000, Southwest Power Pool, Inc.
E–51.
DOCKET# EL02–47, 000, *Wisconsin Public Power, Inc.* v. *Wisconsin Power & Light Company*
OTHER#S EL02–52, 000, *Municipal Wholesale Power Group* v. *Wisconsin Power & Light Company Power*
E–52.
DOCKET# PA03–1, 000, American Electric Power Company
OTHER#S PA03–2, 000, Aquila Merchant Services, Inc.
PA03–3, 000, Coral Energy Resources, LP
PA03–4, 000, CMS Marketing Services & Trading
PA03–5, 000, Dynegy, Inc.
PA03–6, 000, Duke Energy Trading & Marketing, LLC
PA03–7, 000, El Paso Merchant Energy, LP
PA03–8, 000, Mirant Americas Energy Marketing, LP
PA03–9, 000, Reliant Resources, Inc.
PA03–10, 000, Sempra Energy Trading Corp.
PA03–11, 000, Williams Energy Marketing & Trading Company
E–53.
DOCKET# ER02–2001, 000, Electric Quarterly Reports
OTHER#S ER94–1246, 000, Ashton Energy Corporation
ER95–751, 000, PowerGasSmart.com, Inc.
ER95–792, 000, K Power Company
ER95–878, 000, Audit Pro Incorporated
ER95–1381, 000, Alliance Strategies
ER95–1399, 000, Electech, Inc.
ER95–1752, 000, Enpower, Inc.
ER96–734, 000, Energy Marketing Services, Inc.
ER96–924, 000, Direct Access Management, L.P.
ER96–1283, 000, BTU Power Corporation
ER96–1503, 000, Eagle Gas Marketing Company
ER96–1631, 000, Family Fiber Connection, Inc.
ER96–1724, 000, SDS Petroleum Product Inc.
ER96–1731, 000, Engineered Energy Systems Corporation
ER96–1735, 000, GDK Corporation
ER96–1774, 000, Growth Unlimited Investments, Inc.
ER96–1781, 000, EnergyTek, Inc.
ER96–2524, 000, Symmetry Device Research, Inc.
ER96–2635, 000, Tosco Power, Inc.
ER96–2879, 000, U.S. Energy, Inc.
ER96–2942, 000, National Power Marketing L.L.C.
ER97–1117, 000, TC Power Solutions
ER97–1428, 000, American Power Reserve Marketing
ER97–1643, 000, APRA Energy Group Inc.
ER97–1676, 000, Black Brook Energy Company
ER97–3053, 000, Keystone Energy Services, Inc.
ER97–3526, 000, Woodruff Energy
ER97–3815, 000, Friendly Power Company, LLC
ER97–4145, 000, Sigma Energy, Inc.
ER97–4364, 000, PowerCom Energy & Communications Access, Inc.
ER97–4434, 000, Clean Air Capital Markets Corporation
ER97–4680, 000, Starghill Alternative Energy Corporation
ER98–102, 000, Current Energy, Inc.
ER98–174, 000, Millennium Energy Corporation
ER98–573, 000, Aurora Power Resources, Inc.
ER98–1221, 000, Micah Tech Industries, Inc.
ER98–1297, 000, TransCurrent, LLC
ER98–1486, 000, Equinox Energy, LLC
ER98–1829, 000, UtiliSource Corporation
ER98–2232, 000, People's Utility Corporation
ER98–2423, 000, The FURSTS Group, Inc.
ER98–3006, 000, K&K Resources, Inc.
ER98–3052, 000, PowerSource, Corporation
ER98–3451, 000, American Premier Energy Corporation
ER98–3934, 000, Clinton Energy Management Services, Inc.
ER98–4333, 000, Primary Power Marketing, L.L.C.
ER99–581, 000, Business Discount Plan, Inc.
ER99–823, 000, River City Energy, Inc.
ER99–1890, 000, Commodore Electric
ER99–2069, 000, Trident Energy Marketing, Inc.
ER99–2540, 000, Full Power Corporation
ER99–2970, 000, Delta Energy Group
ER99–3207, 000, Capital Center Generating Company LLC
ER00–500, 000, Sierra Pacific Energy Company
ER00–891, 000, Thermo Ecotek Corp.
ER00–1408, 000, Utilimax.com, Inc.
ER00–1530, 000, Energy & Steam Company, Inc.
ER00–2316, 000, Energy Systems Northeast, LLC
ER00–2448, 000, LSP-Nelson Energy, LLC
ER00–2535, 000, The New Power Company
ER00–2670, 000, Multifuels LP
ER00–2806, 000, B.L. England Power LLC
ER01–36, 000, USPower Energy, LLC
ER01–138, 000, Delta Person Limited Partnership
ER01–904, 000, North Carolina Power Holdings, LLC
ER01–1258, 000, New Haven Harbor Power LLC (NHHP)
ER01–1414, 000, Northern Lights Power Company
ER01–1497, 000, Brooke Power, LLC
ER01–2059, 000, Entrust Energy, LLC
ER02–30, 000, Longhorn Power, LP
ER02–159, 000, Great Lakes Hydro America, LLC
ER02–566, 000, Meriden Gas Turbines LLC
ER02–806, 000, Wisconsin Electric Power Company
ER02–893, 000, Dorman Materials, Inc.
E–54.
DOCKET# ER03–194, 002, PJM Interconnection L.L.C.
OTHER#S ER03–309, 001, Allegheny Power
ER03–309, 002, Allegheny Power
E–55.
DOCKET# EL02–119, 000, *The Kroger Co.* v. *Dynergy Power Marketing, Inc.*

MISCELLANEOUS AGENDA

M–1.
DOCKET# PL03–3, 000, Price Discovery in Natural Gas and Electric Markets
M–2.
DOCKET# PL03–4, 000, Policy Statement on Consultation with Indian Tribes in Commission Proceedings
M–3.
DOCKET# RM02–4, 001, Critical Energy Infrastructure Information
OTHER#S PL02–1, 001, Critical Energy Infrastructure Information
M–4.
DOCKET# RM02–7, 001, Accounting, Financial Reporting, and Rate Filing Requirements for Asset Retirement Obligations
M–5.
DOCKET# RM03–6, 000, Amendments to Conform Regulations with Order No. 630 (Critical Energy Infrastructure Information Final Rule)

MARKETS, TARIFFS AND RATES—GAS

G–1.
DOCKET# RP03–529, 000, ANR Pipeline Company
G–2.
DOCKET# PR03–9, 000, Louisiana Intrastate Gas Company, L.L.C.
G–3.
DOCKET# CP02–57, 004, SCG Pipeline, Inc.
G–4.
DOCKET# RP03–199, 000, Enbridge Pipelines (AlaTenn) L.L.C.
G–5.

DOCKET# RP03–335, 000, Enbridge Offshore Pipelines (UTOS) LLC
G–6.
DOCKET# RP03–465, 001, ANR Pipeline Company
G–7.
OMITTED
G–8.
DOCKET# RP01–411, 000, Kern River Gas Transmission Company
G–9.
DOCKET# RP02–318, 002, Questar Southern Trails Pipeline Company
G–10.
DOCKET# IS01–504, 001, BP Transportation (Alaska) Inc.
OTHER#S IS01–504, 000, BP Transportation (Alaska) Inc.
IS03–74, 000, BP Transportation (Alaska) Inc.
G–11.
DOCKET# GT02–38, 006, Northern Natural Gas Company
G–12.
DOCKET# RP00–331, 002, Algonquin Gas Transmission Company
OTHER#S RP00–331, 003, Algonquin Gas Transmission Company
RP01–23, 004, Algonquin Gas Transmission Company
RP01–23, 005, Algonquin Gas Transmission Company
RP03–176, 000, Algonquin Gas Transmission Company
G–13.
DOCKET# RP00–340, 004, Gulf South Pipeline Company, LP
OTHER#S RP00–340, 005, Gulf South Pipeline Company, LP
RP00–340, 007, Gulf South Pipeline Company, LP
RP01–7, 001, Gulf South Pipeline Company, LP
G–14.
DOCKET# RP00–476, 003, Southern Natural Gas Company
OTHER#S RP00–476, 004, Southern Natural Gas Company
RP00–476, 001, Southern Natural Gas Company
RP01–64, 001, Southern Natural Gas Company
G–15.
DOCKET# RP00–506, 004, Northwest Pipeline Corporation
OTHER#S RP00–506, 005, Northwest Pipeline Corporation
RP00–506, 006, Northwest Pipeline Corporation
RP00–506, 007, Northwest Pipeline Corporation
G–16.
DOCKET# RP00–327, 003, Columbia Gas Transmission Corporation
OTHER#S RP00–327, 002, Columbia Gas Transmission Corporation
RP00–327, 004, Columbia Gas Transmission Corporation
RP00–604, 001, Columbia Gas Transmission Corporation
RP00–604, 002, Columbia Gas Transmission Corporation
RP00–604, 004, Columbia Gas Transmission Corporation
G–17.
DOCKET# RP02–365, 001, Northern Natural Gas Company
G–18.
OMITTED
G–19.
OMITTED
G–20.
DOCKET# RP00–333, 004, Crossroads Pipeline Company
OTHER#S RP01–51, 003, Crossroads Pipeline Company
G–21.
DOCKET# RP03–150, 002, Northern Natural Gas Company
G–22.
DOCKET# OR02–13, 001, SFPP, L.P.
G–23.
OMITTED
G–24.
DOCKET# RP92–137 052 Transcontinental Gas Pipe Line Corp.
G–25.
DOCKET# RP96–320 040 Gulf South Pipeline Company, LP
G–26.
DOCKET# PR03–8, 000, Humble Gas Pipeline Company
OTHER#S PR03–8, 001, Humble Gas Pipeline Company
G–27.
DOCKET# PL02–6, 000, Natural Gas Pipeline Negotiated Rate Policies and Practices

ENERGY PROJECTS—HYDRO

H–1.
DOCKET# RM02–16, 000, Hydroelectric Licensing under the Federal Power Act
H–2.
DOCKET# P–2114, 115, *The Yakama Nation* v. *Public Utility District No. 2 of Grant County, Washington*
H–3.
DOCKET# P–2816, 020, Vermont Electric Generation & Transmission Cooperative, Inc., and North Hartland, L.L.C.
H–4.
DOCKET# P–11162, 011, Wisconsin Power & Light Company

ENERGY PROJECTS—CERTIFICATES

C–1.
DOCKET# CP02–78, 002, Maritimes & Northeast Pipeline, L.L.C.
C–2.
DOCKET# CP03–32, 000, Northwest Pipeline Corporation
C–3.
DOCKET# CP03–51, 000, Natural Gas Pipeline Company of America
C–4.
DOCKET# CP03–39, 000, Kinder Morgan Interstate Gas Transmission LLC
C–5.
DOCKET# CP01–94, 004, Nornew Energy Supply, Inc. and Norse Pipeline, L.L.C.
C–6.
DOCKET# CP02–396, 003, Greenbrier Pipeline Company, LLC
OTHER#S CP02–397, 003, Greenbrier Pipeline Company, LLC
CP02–398, 003, Greenbrier Pipeline Company, LLC
C–7.
DOCKET# CP01–409, 003, Tractebel Calypso Pipeline, LLC
OTHER#S CP01–410, 003, Tractebel Calypso Pipeline, LLC
CP01–411, 003, Tractebel Calypso Pipeline, LLC
CP01–444, 003, Tractebel Calypso Pipeline, LLC
C–8.
DOCKET# CP02–204, 001, Transcontinental Gas Pipe Line Corporation

Magalie R. Salas,
Secretary.

[FR Doc. 03–18784 Filed 7–18–03; 5:14 pm]

BILLING CODE 6717–01–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 part 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:

OTS Global Logistics (Mia) Inc. dba OTS Ocean Transportation Lines, 1701 NW. 84th Avenue, Miami, FL 33126. Officers: Gabriel Buedo, President, (Qualifying Individual) Alicia Byrne, Director.

Weiss-Rohlig USA LLC, 1555 Mittel Blvd., Suite N, Wood Dale, IL 60191. Officers: Steven Moser, Operations Officer, (Qualifying Individual) Paul Senger-Weiss, President.

Great Luck Inc., 1515 W. 178th Street, #102, Gardens, CA 90248. Officers: Jay Hino, Chief Operating Officer, (Qualifying Individual) Tetsumasa Suga, President/CEO.

Cargo International Consolidators, Inc., 18327 SW 151 Avenue, Miami, FL 33187. Officers: Michelle E. Fajardo, Director, (Qualifying Individual) Vivian E. Wever, Director.

Aqua Air Enterprises, 5250 W. Century Blvd., #606, Los Angeles, CA 90045. Jono Babic, Sole Proprietor.

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary

Applicants:

Via Global Logistics, Inc., 150–30 132nd Avenue, #206, Jamaica, NY 11434. Officers: Charles Ching, President, Connie Chin, Vice President, (Qualifying Individuals) Cynthia Joa, Secretary.

Kingsco Shipping Line, Inc., 500 Carson Plaza Dr., Suite 208, Carson, CA 90746. Officer: Eun K. Han, President (Qualifying Individual).

Astron Distribution, Inc., 1316 NW. 78th Avenue, Miami, FL 33126. Officers: Karla V. Kushton, Vice President Sales, (Qualifying Individual) Dan C. Boiangin, President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

Intertrans Express, Inc., 2219 W. Valley Blvd., Alhambra, CA 91803. Officers: Charles Yu, Director, (Qualifying Individual) Chun Tsung Tao, President.

Cargo International Services, Inc., 18327 SW 151 Avenue, Miami, FL 33187. Officers: Vivian E. Wever, Director, (Qualifying Individual) Michelle E. Fajardo, Director.

Dated: July 18, 2003.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–18737 Filed 7–22–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *http://www.ffiec.gov/nic/.*

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 15, 2003.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Merchants & Manufacturers Bancorportation, Inc., and Merchants New Merger Corp., both of Brookfield, Wisconsin, to acquire 100 percent of the voting shares of Reedsburg Bancorporation, Inc., Reedsburg, Wisconsin, and thereby indirectly acquire The Reedsburg Bank, Reedsburg, Wisconsin.

2. Merchants & Manufacturers Bancorportation, Inc., and Merchants Merger Corp., both of Brookfield, Wisconsin, to acquire 100 percent of the voting shares of Random Lake Bancorp, Limited, Random Lake, Wisconsin, and thereby indirectly acquire Wisconsin State Bank, Random Lake, Wisconsin.

Board of Governors of the Federal Reserve System, July 17, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–18637 Filed 7–22–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *http://www.ffiec.gov/nic/.*

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 15, 2003.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. JCO Ventures, LLC, Union, South Carolina; HAO Management Company, LLC, Union, South Carolina; FOJ Management Company, LLC, Union, South Carolina; Frances W. Arthur Irrevocable Trust No. 2 for the benefit of Frances Oxner Jorgenson, Union, South Carolina; JCO Partners, L.P., Union, South Carolina; JCO Partners II, L.P., Union, South Carolina; HAO Partners, L.P., Union, South Carolina; HAO Partners, II, L.P., Union, South Carolina; FOJ Partners, L.P., Union, South Carolina; and FOJ Partners II, L.P., Union, South Carolina; to acquire 100 percent of the voting shares of Arthur Financial Corporation, Union, South Carolina, and thereby indirectly acquire voting shares of Arthur State Bank, Union, South Carolina.

2. FOJ Partners LP; FOJ Partners II, LP; FOJ Management Company LLC; JCO Partners, LP; JCO Partners II, LP; JCO Ventures, LLC; HAO Partners, LP; HAO Partners II, LP; HAO Management Company LLC; and Frances W. Arthur Irrevocable Trust No. 2 for the benefit of Frances Oxner Jorgenson, all of Union, South Carolina; to acquire 61.6 percent of the voting shares of Arthur Financial Corporation, Union, South Carolina, and thereby acquire voting shares of Arthur State Bank, Union, South Carolina.

In connection with this application Arthur Financial Corporation, Union, South Carolina, has applied to become a bank holding company by acquiring 100 percent of the voting shares of Arthur State Bank, Union, South Carolina.

3. United Bankshares, Inc., Charleston, West Virginia, and George

Mason Bankshares, Inc., Fairfax, Virginia; to acquire 100 percent of the voting shares of, and merge with, Sequoia Bancshares, Inc., Bethesda, Maryland, and thereby indirectly acquire Sequoiabank, Bethesda, Maryland.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Oswego Community Bank Employee Stock Ownership Plan, Oswego, Illinois; to acquire an additional 18.04 percent, for a total of 51 percent, of the voting shares of Oswego Bancshares, Inc., Oswego, Illinois, and thereby indirectly acquire voting shares of Oswego Community Bank, Oswego, Illinois.

2. TeamCo, Inc. Oak Lawn, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Oak Lawn Bank, Oak Lawn, Illinois.

Board of Governors of the Federal Reserve System, July 16, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–18675 Filed 7–22–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 5, 2003.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Hinsbrook Bancshares, Inc., Willowbrook, Illinois; to engage *de novo* in extending credit and servicing loans, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, July 16, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.03–18674 Filed 7–22–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

[File No. 022 3122]

Global Instruments Ltd., *et al.*; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 18, 2003.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Connie Vecellio or Patricia Bak, FTC, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2966 or 326–2842.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for July 18, 2003), on the World Wide Web, at *http://www.ftc.gov/os/2003/07/index.htm*. A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *consentagreement@ftc.gov*. Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Global Instruments Ltd. and Charles Patterson, individually and as an officer of the corporation.

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns practices related to the advertising, offering for sale, sale, and distribution of various

electromagnetic, ultrasonic, and combination electromagnetic and ultrasonic pest control devices. The Commission's proposed complaint alleges that proposed respondents violated section 5 of the Federal Trade Commission Act, 15 U.S.C. § 5, by making numerous representations about Global's pest control products for which they lacked a reasonable basis. Specifically, the complaint alleges that the following representations were unsubstantiated:

- Global's electromagnetic pest control products repel, drive away, or eliminate mice, rats, and cockroaches from homes and other buildings in two to four weeks and drive them away by sending a pulsating signal throughout or altering the field around the electrical wiring inside homes and other buildings; they act as an effective alternative to or eliminate the need for chemicals, pesticides, insecticides, exterminators, and pest control services;
- Global's combination electromagnetic/ultrasonic pest control devices effectively repel, control or eliminate mice, rats, cockroaches, rodents, insects, spiders, silverfish, and bats from homes and other buildings and upset nesting sites of mice, rats, and cockroaches within walls, ceilings, and floors by using the products' pulse or electromagnetic technology through the household wiring;
- Global's ultrasonic pest control devices effectively repel, drive away, or eliminate mice, rats, bats, crickets, spiders and other insects from homes and eliminate the need for toxic chemicals, poisons or traps; and
- Global's pest control products are effective within a space of a given size (for example, 1000 sq. ft. or 2000 sq. ft.).

The proposed consent order contains provisions designed to prevent proposed respondents from engaging in similar acts and practices in the future. Part I of the proposed order prohibits the following representations unless respondents possess competent and reliable scientific evidence that substantiates the representations:

- That any pest control product repels, controls, or eliminates, temporarily or indefinitely, mice, rats, cockroaches, or any other insects or animal pests and that it does so in an area of a certain size;
- that any pest control product is an effective alternative to or eliminates the need for chemicals, pesticides, insecticides, exterminators, or any other pest control product or service; and
- that any pest control product will alter the electromagnetic field, send a pulsating signal, or otherwise work inside the walls or through the wiring of homes or other buildings in a manner that effectively repels, controls, drives away, or eliminates mice, rats, cockroaches, or any other insects or animal pests.

Part II of the proposed order requires respondents to possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, for claims about the benefit, performance, or efficacy of any product.

Part III of the proposed order requires the respondents to maintain certain records for five years after the last date of dissemination of any representation covered by the order. These records include: (1) All advertisements and promotional materials containing the representation; (2) all materials relied upon in disseminating the representation; and (3) all evidence in respondents' possession or control that contradicts, qualifies, or calls into question the representation or the basis for it.

Part IV of the proposed order requires distribution of the order to current and future principals, officers, directors, and managers, and to current and future employees, agents, and representatives having responsibilities with respect to the subject matter of the order.

Part V of the proposed order requires that the Commission be notified of any change in the corporation that might affect compliance obligations under the order. Part VI of the proposed order requires that for a period of three years, respondent Charles Patterson will notify the Commission of the discontinuance of his current business or employment or of his affiliation with any new business or employment involving the marketing of any consumer product.

Part VII of the proposed order requires the respondents to file a compliance report with the Commission.

Part VIII of the proposed order states that, absent certain circumstances, the order will terminate twenty (20) years from the date it is issued.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03–18742 Filed 7–22–03; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 021 0017]

The Maine Health Alliance, et al.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 18, 2003.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed in the Supplementary Information section.

FOR FURTHER INFORMATION CONTACT: Jeffrey Brennan, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2701.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for July 18, 2003), on the World Wide Web, at *http://www.ftc.gov/os/2003/07/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed

to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following email box: *consentagreement@ftc.gov*. Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a proposed consent order with the Maine Health Alliance and its Executive Director, William R. Diggins. The Alliance is an organization consisting of over 325 physicians and 11 hospitals in northeastern Maine. The agreement settles charges that respondents violated section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by facilitating and implementing agreements among physician members and among hospital members of the Alliance to fix prices and other terms of dealing for physician and hospital services with health insurance firms and other third-party payors, and to refuse to deal with these payors except on collectively determined terms. These price-fixing agreements and concerted refusals to deal among otherwise competing physicians and among otherwise competing hospitals, in turn, have kept the price of health care in northeastern Maine above the level that would have prevailed absent the illegal conduct. The proposed consent order has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed order final.

The purpose of this analysis is to facilitate public comment on the proposed order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order, or to modify their terms in any way. Further, the proposed consent order has been entered into for settlement purposes only and does not constitute an admission by the respondents that they violated the law or that the facts alleged in the complaint (other than jurisdictional facts) are true.

The Complaint Allegations

The Alliance was formed in 1995 by the vast majority of physicians and hospitals in five counties in northeastern Maine to negotiate payor contracts that contained ''higher compensation'' and more ''advantageous'' contract terms than the physicians and hospitals could obtain by dealing individually with payors. More than 85% of the physicians on staff at Alliance member hospitals are Alliance members, as are eleven of the sixteen hospitals in the five-county area. The physician and hospital members designated the Alliance as their negotiating agent to contract with payors, and authorized the Alliance to enter into, on their behalf, payor contracts.

Although the Alliance is a nonprofit corporation, and its member hospitals are tax-exempt organizations, a substantial majority of its physician members are for-profit entities. These for-profit physicians play a significant role in the governance of the Alliance and receive pecuniary benefits as a result of their participation. Participating physicians select 11 of the 22 members of the Alliance's Board of Directors and thus exercise substantial authority over the policies and actions of the Alliance. The participating physicians are therefore ''members'' of the Alliance within the meaning of Section 4 of the FTC Act, which grants the Commission jurisdiction over nonprofit organizations that carry on business for the profit of their members. Because the Alliance engages in substantial activities that confer pecuniary benefits on these for-profit members, its activities engaged in on behalf of the physician and hospital members fall within the Commission's jurisdiction.

Alliance physician and hospital members have refused to contract with payors on an individual basis. Instead, the Alliance's Board of Directors authorized Mr. Diggins to act as a principal negotiating agent with payors on behalf of the collective membership of the Alliance. Mr. Diggins was instrumental in forming the Alliance, coordinating the membership's collective bargaining activity, and negotiating payor contracts on behalf of the collective membership.

As guidance for Mr. Diggins, the Board, in conjunction with its Contracts Committee, compiled written ''Contracting Guidelines and Parameters,'' setting forth price-related and other competitively significant terms that the Alliance required in order to contract with payors. Mr. Diggins reported the details of negotiations with payors to the Board and the Contracts Committee. Based on the recommendations of Mr. Diggins, and the Contracts Committee, the Board decided whether to accept or reject contracts with payors on behalf of the Alliance's physician and hospital members.

The Alliance and Mr. Diggins negotiated higher reimbursement for Alliance physician and hospital members, and more advantageous contract language, than the physicians and hospitals could have achieved through individual contracts with payors. Despite a written Alliance policy allowing members to contract independently of the Alliance, in fact the Alliance and Mr. Diggins encouraged the physician and hospital members to contract only through the Alliance, in order to maintain the Alliance's leverage over payors. Mr. Diggins provided Alliance physician and hospital members with a model letter for them to use to notify payors that they refused to negotiate individually, and that the Alliance would negotiate on their behalf. In response to payors' requests to contract directly with Alliance physician and hospital members, the members directed payors to the Alliance for contracting.

The Alliance's and Mr. Diggins' joint negotiation of fees and other competitively significant terms has not been reasonably related to any efficiency-enhancing integration. Although the Alliance has developed some clinical programs limited primarily to hospital members, none of the Alliance's clinical activities create any significant degree of interdependence among the physician or hospital participants, nor do the activities create sufficiently substantial potential efficiencies.

By orchestrating agreements among Alliance physician members, and hospital members, to deal only on collectively-determined terms, together with refusals to deal with payors that would not meet those terms, respondents have violated section 5 of the FTC Act.

The Proposed Consent Order

The proposed order is designed to prevent recurrence of the illegal conduct charged in the complaint, while allowing respondents to engage in

legitimate conduct that does not impair competition.

The proposed order's specific provisions are as follows:

The proposed order's core prohibitions are contained in Paragraphs II, III, and V. Paragraph II is intended to prevent the Respondents from participating in, or creating, future unlawful agreements for physician services. Paragraph II.A prohibits the Alliance and Mr. Diggins from entering into or facilitating any agreement between or among any physicians: (1) To negotiate with payors on any physician's behalf; (2) to deal, not to deal, or threaten not to deal with payors; (3) on what terms to deal with any payor; or (4) not to deal individually with any payor, or to deal with any payor only through the Alliance.

Other parts of Paragraph II reinforce these general prohibitions. Paragraph II.B prohibits the respondents from facilitating exchanges of information among physicians concerning whether, or on what terms, to contract with a payor. Paragraph II.C bars attempts to engage in any action prohibited by Paragraph II.A or II.B. Paragraph II.D proscribes inducing anyone to engage in any action prohibited by Paragraphs II.A through II.C.

Paragraph III is intended to prevent the Respondents from participating in, or creating, future unlawful agreements for hospital services. Paragraphs III.A through D are identical to Paragraphs II.A through D, except that they apply to the Alliance's or Mr. Diggins' actions regarding the provision of hospital, rather than physician, services. This matter is the Commission's first law enforcement action charging an organization with price-fixing and other anticompetitive collusive conduct in the market for hospital services, in violation of section 5 of the FTC Act. Thus, unlike previous orders involving collective bargaining with health plans, this order bars agreements relating to both physicians and hospitals.

As in other orders addressing providers' collective bargaining with health care purchasers, certain kinds of agreements are excluded from the general bar on joint negotiations. Respondents would not be precluded from engaging in conduct that is reasonably necessary to form or participate in legitimate joint contracting arrangements among competing physicians or competing hospitals, whether a ''qualified risk-sharing joint arrangement'' or a ''qualified clinically-integrated joint arrangement.''

As defined in the proposed order, a ''qualified risk-sharing joint arrangement'' possesses two key characteristics. First, all physician or all hospital participants must share substantial financial risk through the arrangement, such that the arrangement creates incentives for the participants to control costs and improve quality by managing the provision of services. Second, any agreement concerning reimbursement or other terms or conditions of dealing must be reasonably necessary to obtain significant efficiencies through the joint arrangement.

A ''qualified clinically-integrated joint arrangement,'' on the other hand, need not involve any sharing of financial risk. Instead, as defined in the proposed order, all physician participants must participate in active and ongoing programs to evaluate and modify their clinical practice patterns in order to control costs and ensure the quality of services provided, and the arrangement must create a high degree of interdependence and cooperation among physicians. As with qualified risk-sharing arrangements, any agreement concerning price or other terms of dealing must be reasonably necessary to achieve the efficiency goals of the joint arrangement.

In the event that the Alliance forms a qualified risk-sharing joint arrangement or a qualified clinically-integrated joint arrangement, Paragraph IV requires the Alliance to notify the Commission at least 60 days prior to negotiating or entering into agreements with payors, or discussing price or related terms among the participants of the arrangement. Notification is not required for negotiations or agreements with subsequent payors pursuant to any arrangement for which notice was given under Paragraph IV. Paragraph IV.B sets out the information necessary to make the notification complete. Paragraph IV.C establishes the Commission's right to obtain additional information regarding the arrangement.

Paragraph V prohibits Mr. Diggins, for three years, from negotiating with any payor on behalf of any Alliance physician or hospital member, and from advising any Alliance physician or hospital member to accept or reject any term, condition, or requirement of dealing with any payor. Mr. Diggins, however, is permitted to form, participate in, or take any action in furtherance of a qualified risk-sharing joint arrangement or qualified clinically-integrated joint arrangement on behalf of the Alliance.

Paragraph VI.A requires the Alliance to distribute the complaint and order to all physicians and hospitals who have participated in the Alliance, and to payors that contract with the Alliance. Paragraph VI.B requires the Alliance, at any payor's request and without penalty, to terminate its current contracts with respect to providing physician services. If a payor does request termination, Paragraph VI.B requires the Alliance to terminate the contract on its earliest termination or renewal date. Paragraph VI.B also provides that a contract may extend up to one year beyond the termination or renewal date if the payor affirms the contract in writing and the Alliance does not exercise its right to terminate the contract.

Paragraph VII.A requires Mr. Diggins to distribute the complaint and order to physician and hospital groups he represents in contracting with payors, and to payors with which he has dealt in contracting while representing any physician or hospital groups.

Paragraphs VII.B through IX of the proposed order impose various obligations on respondents to report or provide access to information to the Commission to facilitate monitoring respondents' compliance with the order.

The proposed order will expire in 20 years.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03–18743 Filed 7–22–03; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 021 0188]

Washington University Physician Network; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 11, 2003.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to:

consentagreement@ftc.gov, as prescribed in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Garry Gibbs, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2767.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for July 11, 2003), on the World Wide Web, at *http://www.ftc.gov/os/2003/07/index.htm*. A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *consentagreement@ftc.gov*. Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a proposed consent order with the Washington University Physician Network (WUPN). The agreement settles charges that WUPN violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by orchestrating and implementing agreements among WUPN and its independent, community-based physician members (''community physicians''), and facilitating agreements among its community physicians and its Washington University School of Medicine full-time faculty physician members (''faculty physicians''), to fix prices and other terms on which they would deal with health plans, and to refuse to deal with such purchasers except on collectively-determined terms. The proposed consent order has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed order final.

The purpose of this analysis is to facilitate public comment on the proposed order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order, or to modify their terms in any way. Further, the proposed consent order has been entered into for settlement purposes only and does not constitute an admission by WUPN that it violated the law or that the facts alleged in the complaint (other than jurisdictional facts) are true.

The Complaint Allegations

WUPN consists of 900 faculty physicians and 600 community physicians who provide health care services in St. Louis, Missouri and four neighboring counties (''the greater St. Louis area''). WUPN was established in 1993 to facilitate, among competing physicians, collective bargaining with health plans in order to obtain more favorable reimbursement rates and other ''very favorable terms when compared to contracts entered into on an individual basis or through another organization.''

WUPN is a not-for-profit corporation, and its sole legal member is Washington University (''WU''), also a non-profit entity. Section 4 of the FTC excludes certain types of non-profit corporations from its definition of entities under its jurisdiction. However, the Commission has jurisdiction over WUPN because WUPN's community physicians, who operate for profit, are ''members'' of WUPN due to their significant role in governing the organization. Also, WUPN provides substantial economic benefits for its community physician members, who make up a minority of the membership but are granted a substantial role in WUPN to enhance their incomes and bargaining power.

WUPN is managed and controlled by a Board of Directors made up of 16 community physicians and 13 faculty physicians. Contracts with health plans are negotiated by representatives of WUPN's Management Committee, and progress of its negotiations is reported to WUPN's Board. The Committee recommends to the Board whether to accept or reject a payor's fee schedule, or whether to terminate or extend a payor's existing contract. The Board votes on the recommendation, which requires majority approval.

WUPN has successfully coerced a number of health plans to increase the fees they pay to WUPN members, and thereby raised the cost of medical care in the greater St. Louis area. As a result of the challenged actions of WUPN, consumers in the greater St. Louis area are deprived of the benefits of competition among physicians. By facilitating agreements among WUPN members to deal only on collectively-determined terms, and actual or threatened refusals to deal with health plans that would not meet those terms, WUPN has violated Section 5 of the FTC Act.

WUPN's collective negotiations with payors are not justified by any efficiency-enhancing integration among the community physicians, or among the community physicians and the faculty physicians.

The Proposed Consent Order

The proposed order is designed to prevent recurrence of the illegal conduct charged in the complaint, while allowing WUPN to engage in legitimate conduct that does not impair competition. It is similar to recent orders that the Commission has issued to settle charges that physician groups engaged in unlawful agreements to raise the fees they receive from health plans.

The proposed order's specific provisions are as follows:

Paragraph II.A prohibits WUPN from entering into or facilitating any agreement between or among any physicians: (1) To negotiate with payors on any physician's behalf; (2) to deal, refuse to deal, or threaten not to deal with payors; (3) on what terms to deal with any payor; or (4) not to deal individually with any payor, or not to deal with any payor through an arrangement other than WUPN.

Other parts of Paragraph II reinforce these general prohibitions. Paragraph II.B prohibits WUPN from facilitating exchanges of information among

physicians concerning whether, or on what terms, to contract with a payor. Paragraph II.C bars attempts to engage in any action prohibited by Paragraph II.A or II.B. Paragraph II.D proscribes inducing anyone to engage in any action prohibited by Paragraphs II.A through II.C.

As in other orders addressing providers' collective bargaining with health care purchasers, certain kinds of agreements are excluded from the general bar on joint negotiations.

First, WUPN would not be precluded from engaging in conduct that is reasonably necessary to form or participate in legitimate joint contracting arrangements among competing physicians, whether a ''qualified risk-sharing joint arrangement'' or a ''qualified clinically-integrated joint arrangement.'' Second, WUPN would be permitted to enter into any agreement or engage in any conduct that only involves WU faculty members with respect to services provided by WU physicians.

As defined in the proposed order, a ''qualified risk-sharing joint arrangement'' possesses two key characteristics. First, all physician participants must share substantial financial risk through the arrangement, such that the arrangement creates incentives for the participants to control costs and improve quality by managing the provision of services. Second, any agreement concerning reimbursement or other terms or conditions of dealing must be reasonably necessary to obtain significant efficiencies through the joint arrangement.

A ''qualified clinically-integrated joint arrangement,'' on the other hand, need not involve any sharing of financial risk. Instead, as defined in the proposed order, physician participants must participate in active and ongoing programs to evaluate and modify their clinical practice patterns in order to control costs and ensure the quality of services provided, and the arrangement must create a high degree of interdependence and cooperation among physicians. As with qualified risk-sharing arrangements, any agreement concerning price or other terms of dealing must be reasonably necessary to achieve the efficiency goals of the joint arrangement.

Paragraphs III.A and III.B require WUPN to send notice of the order and complaint to all WUPN participating physicians, WUPN employees and principals, and all payors WUPN has contacted since January 1, 1998, concerning the provision of physician services. Paragraph III.C. requires WUPN to terminate, without penalty, any preexisting contract with a payor upon receipt of a payor's written request to terminate the contract. This provision is intended to eliminate the effects of WUPN's anticompetitive actions. Paragraph III.D of the proposed order requires WUPN to distribute the order and complaint prospectively to new members, newly contracted payors, and new employees for a period of three years, and Paragraphs IV through VI set out WUPN's requirements to report or provide access to information to the Commission to facilitate monitoring of WUPN's compliance with the order.

The proposed order will expire in 20 years.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03–18744 Filed 7–22–03; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

National Travel Forum 2004: Traveling on the Frontier of Change (NTF 2004)

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Notice.

SUMMARY: The General Services Administration (GSA) is announcing that it will hold its third national travel forum. The National Travel Forum 2004: Traveling on the Frontier of Change (NTF 2004) will take place June 28–July 1, 2004 at the Wyndham Anatole in Dallas, Texas. Nearly 1,500 travel, relocation, financial and other professionals within Federal, State, and local governments, as well as the private sector will attend. Much of the focus will be on the governmentwide eTravel Service (eTS), the Federal Premier Lodging Program (FPLP), and revised relocation regulations. Best practices in Government travel and relocation services, as well as many other topics will be discussed. To attend, exhibit, or hold an agency-wide meeting, visit the NTF 2004 Web site at *http://www.nationaltravelforum.org.*

FOR FURTHER INFORMATION CONTACT: Rick Freda, Office of Governmentwide Policy, at (202) 219–3500, or by e-mail to *Rick.Freda@gsa.gov.*

Dated: July 18, 2003.

Peggy DeProspero,

Director, Travel Management Policy.

[FR Doc. 03–18751 Filed 7–22–03; 8:45 am]

BILLING CODE 6820–24–P

GENERAL SERVICES ADMINISTRATION

[2003–N04]

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons

AGENCIES: Office of Civil Rights, General Services Administration (GSA).

ACTION: Notice of interim final policy guidance document.

SUMMARY: The General Services Administration (GSA) is publishing for public comment interim final policy guidance on Title VI's prohibition against national origin discrimination as it affects limited English proficient (LEP) persons. This guidance will become final after a 30-day comment period unless GSA determines that the comments require further modification to the guidance. Once final, this policy guidance will supplant the policy guidance published on January 17, 2001.

DATES: Submit comments on or before August 22, 2003. GSA will review all comments and will determine what modifications, if any, to this policy guidance are necessary. Because this guidance must adhere to the Federal-wide compliance standards and framework detailed in the model U.S. Department of Justice's LEP guidance, GSA specifically solicits comments on the nature, scope, and appropriateness of the GSA-specific examples set out in this guidance explaining and/or highlighting how those consistent Federal-wide compliance standards are applicable to recipients of Federal financial assistance through GSA.

ADDRESSES: Interested persons should submit written comments to Ms. Regina Budd, Deputy Associate Administrator, Office of Civil Rights, General Services Administration, 1800 F Street, NW., Suite 5127, Washington, DC 20405. Comments may also be submitted by facsimile at (202) 219–3369 or at e-mail *OCR@gsa.gov.*

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 208–7312, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Evelyn Britton at the Office of Civil Rights, General Services Administration, 1800 F Street, NW., Washington, DC 20405. Telephone (202) 501–0767; 1–800–662–6376; TDD 1–888–267–7660.

SUPPLEMENTARY INFORMATION: The purpose of this policy guidance is to further clarify the responsibilities of recipients of Federal financial assistance from GSA and assist them in fulfilling their responsibilities to limited English proficient (LEP) persons, pursuant to Title VI of the Civil Rights Act of 1964 and GSA implementing regulations. The policy guidance explains that to avoid discrimination against LEP persons on the ground of national origin, recipients must take reasonable steps to ensure that LEP persons have meaningful access to the programs, services, and information those recipients provide, free of charge.

GSA's guidance for recipients was originally published on January 17, 2001, and became effective immediately. (See 66 FR 4026.) That document, like the following guidance, was based on policy guidance issued by the Department of Justice entitled ''Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons with Limited English Proficiency.'' (See 65 FR 50123, August 16, 2000.)

On February 20, 2002, the GSA re-published its recipient guidance for additional public comment. (See 67 FR 7692.) Comments representing 24 different organizations were received, and the following guidance was developed after review and consideration of those comments. Prior comments on the original guidance need not be re-submitted.

On March 14, 2002, the Office of Management and Budget (OMB) issued a Report to Congress titled ''Assessment of the Total Benefits and Costs of Implementing Executive Order No. 13166: Improving Access to Services for Persons with Limited English Proficiency.'' The Report made several recommendations designed to minimize confusion and ensure that funds dedicated to LEP services best advance meaningful access for LEP individuals.

One significant recommendation was the adoption of uniform guidance across all Federal agencies, with flexibility to permit tailoring to each agency's specific recipients. In a memorandum to all Federal funding agencies dated July 8, 2002, Assistant Attorney General Ralph Boyd of DOJ's Civil Rights Division requested that agencies model their agency-specific guidance for recipients after sections I through VIII of DOJ's June 18, 2002, guidance. Therefore, this guidance is modeled after the language and format of DOJ's revised, final guidance, ''Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons'', published on June 18, 2002, 67 FR 41455.

It has been determined that the guidance does not constitute a regulation subject to the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553.

The text of the complete guidance document appears as an attachment to this notice.

Dated: July 1, 2003.

Madeline Caliendo,

Associate Administrator, Office of Civil Rights.

I. Introduction

Most individuals living in the United States read, write, speak and understand English. There are many individuals, however, for whom English is not their primary language. For instance, based on the 2000 census, over 26 million individuals speak Spanish and almost 7 million individuals speak an Asian or Pacific Island language at home. If these individuals have a limited ability to read, write, speak, or understand English, they are limited English proficient, or ''LEP.'' While detailed data from the 2000 census has not yet been released, 26% of all Spanish-speakers, 29.9% of all Chinese-speakers, and 28.2% of all Vietnamese-speakers reported that they spoke English ''not well'' or ''not at all'' in response to the 1990 census.

Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally funded programs and activities. The Federal Government funds an array of services that can be made accessible to otherwise eligible LEP persons. The Federal Government is committed to improving the accessibility of these programs and activities to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. Recipients should not overlook the long-term positive impacts of incorporating or offering English as a Second Language (ESL) programs in parallel with language assistance services. ESL courses can serve as an important adjunct to a proper LEP plan. However, the fact that ESL classes are made available does not obviate the statutory and regulatory requirement to provide meaningful access for those who are not yet English proficient. Recipients of Federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important government services.[1]

In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from Federally assisted programs and activities may violate the prohibition under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d and Title VI regulations against national origin discrimination. The purpose of this policy guidance is to assist recipients in fulfilling their responsibilities to provide meaningful access to LEP persons under existing law. This policy guidance clarifies existing legal requirements for LEP persons by providing a description of the factors recipients should consider in fulfilling their responsibilities to LEP persons.[2] These are the same criteria GSA will use in evaluating whether recipients are in compliance with Title VI and Title VI regulations.

In a memorandum to all Federal funding agencies, dated July 8, 2002, Assistant Attorney General Ralph Boyd of the U.S. Department of Justice's (DOJ) Civil Rights Division requested that agencies model their agency-specific guidance for recipients after Sections I–VIII of DOJ's June 18, 2002 guidance. Therefore, this guidance is modeled after the language and format of the DOJ's revised, final guidance, ''Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons'', published June 18, 2002, 67 FR 41455. The DOJ's role under Executive Order 13166 is unique. The Order charges DOJ with responsibility for providing LEP Guidance to other Federal agencies and for ensuring consistency among each agency-specific guidance. Consistency among Federal agencies is particularly important. Inconsistency or contradictory guidance could confuse

[1] GSA recognizes that many recipients had language assistance programs in place prior to the issuance of Executive Order 13166. This policy guidance provides a uniform framework for a recipient to integrate, formalize, and assess the continued vitality of these existing and possibly additional reasonable efforts based on the nature of its program or activity, the current needs of the LEP populations it encounters, and its prior experience in providing language services in the community it serves.

[2] The policy guidance is not a regulation but rather a guide. Title VI and its implementing regulations require that recipients take responsible steps to ensure meaningful access by LEP persons. This guidance provides an analytical framework that recipients may use to determine how best to comply with statutory and regulatory obligations to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are limited English proficient.

recipients of Federal funds and needlessly increase costs without rendering the meaningful access for LEP persons that this Guidance is designed to address. As with most government initiatives, this requires balancing several principles. While this Guidance discusses that balance in some detail, it is important to note the basic principles behind that balance. First, we must ensure that Federally-assisted programs aimed at the American public do not leave some behind simply because they face challenges communicating in English. This is of particular importance because, in many cases, LEP individuals form a substantial portion of those encountered in Federally-assisted programs. Second, we must achieve this goal while finding constructive methods to reduce the costs of LEP requirements on small businesses, small local governments, or small non-profits that receive Federal financial assistance.

There are many productive steps that the Federal government, either collectively or as individual grant agencies, can take to help recipients reduce the costs of language services without sacrificing meaningful access for LEP persons. Without these steps, certain smaller grantees may well choose not to participate in Federally assisted programs, threatening the critical functions that the programs strive to provide. To that end, GSA plans to continue to provide assistance and guidance in this important area. An interagency working group on LEP has developed a Web site, *http://www.lep.gov,* to assist in disseminating this information to recipients, Federal agencies, and the communities being served.

Many commentators have noted that some have interpreted the case of *Alexander* v. *Sandoval,* 532 U.S. 275 (2001), as impliedly striking down the regulations promulgated under Title VI that form the basis for the part of Executive Order 13166 that applies to Federally assisted programs and activities. We have taken the position that this is not the case, and will continue to do so. Accordingly, we will strive to ensure that Federally assisted programs and activities work in a way that is effective for all eligible beneficiaries, including those with limited English proficiency.

II. Legal Authority

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides that no person shall ''on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.'' Section 602 authorizes and directs Federal agencies that are empowered to extend Federal financial assistance to any program or activity ''to effectuate the provisions of [section 601] * * * by issuing rules, regulations, or orders of general applicability.'' 42 U.S.C. 2000d–1. GSA regulations promulgated pursuant to section 602 forbid recipients from ''utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.'' 41 CFR 101.6.204–2(a)(2). The Supreme Court, in *Lau* v. *Nichols,* 414 U.S. 563 (1974), interpreted regulations promulgated by the former Department of Health, Education, and Welfare to hold that Title VI prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes national origin discrimination. In ''Lau,'' a San Francisco school district that had a significant number of non-English speaking students of Chinese origin was required to take reasonable steps to provide them with a meaningful opportunity to participate in Federally funded educational programs.

On August 11, 2000, Executive Order 13166 was issued. ''Improving Access to Services for Persons with Limited English Proficiency,'' 65 FR 50121 (August 16, 2000). Under that order, every Federal agency that provides financial assistance to non-Federal entities must publish guidance on how their recipients can provide meaningful access to LEP persons and thus comply with Title VI regulations forbidding funding recipients from ''restrict[ing] an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program'' or from ''utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.''

On that same day, DOJ issued a general guidance document addressed to ''Executive Agency Civil Rights Officers'' setting forth general principles for agencies to apply in developing guidance documents for recipients pursuant to the Executive Order. ''Enforcement of Title VI of the Civil Rights Act of 1964 National Origin Discrimination Against Persons With Limited English Proficiency,'' 65 FR 50123 (August 16, 2000) (''DOJ LEP Guidance'').

Subsequently, Federal agencies raised questions regarding the requirements of the Executive Order, especially in light of the Supreme Court's decision in *Alexander* v. *Sandoval,* 532 U.S. 275 (2001). On October 26, 2001, Ralph F. Boyd, Jr., Assistant Attorney General for the Civil Rights Division, issued a memorandum for ''Heads of Departments and Agencies, General Counsels and Civil Rights Directors.'' This memorandum clarified and reaffirmed the DOJ LEP Guidance in light of Sandoval.[3] The Assistant Attorney General stated that because Sandoval did not invalidate any Title VI regulations that proscribe conduct that has a disparate impact on covered groups—the types of regulations that form the legal basis for the part of Executive Order 13166 that applies to Federally assisted programs and activities—the Executive Order remains in force.

Pursuant to Executive Order 13166, GSA developed its own guidance document for recipients and initially issued it on January 17, 2001, ''Limited English Proficiency Policy Guidance for recipients of Federal Financial Assistance,'' 66 FR 4026 (January 17, 2001) (''LEP Guidance for GSA Recipients''). Because GSA did not receive any public comment on its January 17, 2001 publication, the Agency republished on February 20, 2002 its existing guidance document for additional public comment, ''Limited English Proficiency Policy Guidance for Recipients of Federal Financial Assistance,'' 67 FR 7692 (February 20, 2002). GSA has since received

[3] The memorandum noted that some commentators have interpreted Sandoval as impliedly striking down the disparate-impact regulations promulgated under Title VI that form the basis for the part of Executive Order 13166 that applies to Federally assisted programs and activities, *See, e.g.,* Sandoval 532 U.S. at 286, 286 n.6 (''[W]e assume for purposes of this decision that section 602 confers the authority to promulgate disparate-impact regulation; * * * We cannot help observing, however, how strange it is to say that disparate-impact regulations are 'inspired by, at the service of, and inseparably intertwined with' Sec. 601 * * * when Sec. 601 permits the very behavior that the regulations forbid.''). The memorandum, however, made clear that DOJ disagreed with the commentators' interpretation. Sandoval holds principally that there is no private right of action to enforce Title VI disparate-impact regulations. It did not address the validity of those regulations or Executive Order 13166 or otherwise limit the authority and responsibility of Federal grant agencies to enforce their own implementing regulations.

significant public comment. This guidance document is thus published pursuant to Executive Order 13166. Once final it will supplant the January 17, 2001 publication in light of the public comment received and Assistant Attorney General Boyd's October 26, 2001 clarifying memorandum and July 8, 2002 memorandum advising agencies to revise and re-publish their guidance, modeled after DOJ's June 18, 2002 final guidance.

III. Who Is Covered?

GSA's implementation regulations provide, in part, at 41 CFR 101–6.204–1:

''No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this subpart applies.''

Specific discriminatory actions prohibited are addressed at 41 CFR 101–6.204–2: ''(a)(1) In connection with any program to which this subpart applies, a recipient may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

(i) Deny an individual any services/benefits, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to any individual which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise, or afford him an opportunity to do so which is different from that afforded others under the program * * *.''

Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Recipients of GSA assistance include, for example:[4]

—State and local agencies involved in such activities as: Conservation; economic development; education; park and recreation programs; public safety; public health programs for the elderly; and programs for the homeless; and

—Nonprofit organizations that perform educational and public health activities exempt from taxation under section 501 of the Internal Revenue such as: Medical institutions; hospitals; clinics; health centers; and drug abuse treatment centers; schools; universities; Head Start; childcare centers; educational radio and television stations; museums attended by the public; libraries; food banks; and other eligible organizations that provide support and services to the needy, shelter, or support services to the homeless or impoverished.

Subrecipients likewise are covered when Federal funds are passed through from one recipient to a subrecipient. Coverage extends to a recipient's entire program or activity, *i.e.*, to all parts of a recipient's operations. This is true even if only one part of the recipient receives the Federal assistance.[5]

Example: GSA donates a surplus backhoe and grader to a State park within the State Department of Parks and Recreation. All of the operations of the entire State Department of Parks and Recreation—not just the particular park that received the property—are covered.

Finally, some recipients operate in jurisdictions in which English has been declared the official language. Nonetheless, these recipients continue to be subject to Federal non-discrimination requirements, including those applicable to the provision of Federally assisted services to persons with limited English proficiency.

IV. Who Is a Limited English Proficient Individual?

Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English can be limited English proficient, or ''LEP,'' entitled to language assistance with respect to a particular type of service, benefit, or encounter.

Examples of populations likely to include LEP persons who are encountered and/or served by GSA recipients and should be considered when planning language services include, but are not limited to:

—Persons seeking assistance from a county's emergency services, such as 9–1–1 service, which include individuals reporting automobile accidents, fires, criminal, or other activity; and individuals who encounter the legal system;

—Parents or other family members seeking information about childcare and educational services; and

—Individuals seeking services from homeless shelters, domestic abuse shelters, food banks, clinics, hospitals, medical institutions, or health-care providers.

V. How Does a Recipient Determine the Extent of Its Obligation To Provide LEP Services?

Recipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors: (1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the grantee/recipient and costs. As indicated above, the intent of this guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small business, small local governments, or small nonprofits.

After applying the above four-factor analysis, a recipient may conclude that different language assistance measures are sufficient for the different types of programs or activities in which it engages. For instance, some of a recipient's activities will be more important than others and/or have greater impact on or contact with LEP persons, and thus may require more in the way of language assistance. The flexibility that recipients have in addressing the needs of the LEP populations they serve does not diminish, and should not be used to minimize, the obligation that those needs be addressed. GSA recipients should apply the following four factors

[4] Pursuant to Executive Order 13166, the meaningful access requirement of the Title VI regulations and the four-factor analysis set forth in the GSA LEP Guidance are to additionally apply to the programs and activities of Federal agencies, including the GSA.

[5] However, if a Federal agency were to decide to terminate Federal funds based on noncompliance with Title VI or its regulations, only funds directed to the particular program or activity that is out of compliance would be terminated. 42 U.S.C. 2000d–1.

to the various kinds of contacts that they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons.

(1) The Number or Proportion of LEP Persons Served or Encountered in the Eligible Service Population

One factor in determining what language services recipients should provide is the number or proportion of LEP persons from a particular language group served or encountered in the eligible service population. The greater the number or proportion of these LEP persons, the more likely language services are needed. Ordinarily, persons ''eligible to be served, or likely to be directly affected by,'' a recipient's program or activity are those who are served or encountered in the eligible service population. This population will be program-specific, and includes persons who are in the geographic area that has been approved by a Federal grant agency as the recipient's service area. However, where, for instance, a nonprofit organization operates several shelters within a large county and one health clinic that serves a large LEP population in a rural part of the country, the appropriate service area for the clinic is most likely that portion of the county served by the health clinic, and not the entire population served by the nonprofit organization. The same would be true for the shelters. Where no service area has previously been approved, the relevant service area may be that which is approved by state or local authorities or designated by the recipient itself, provided that these designations do not themselves discriminatorily exclude certain populations. When considering the number or proportion of LEP individuals in a service area, recipients should consider LEP parent(s) when their English-proficient or LEP minor children and dependents encounter the recipient's services, programs or activities.

Recipients should first examine their prior experiences with LEP encounters and determine the breadth and scope of language services that were needed. In conducting this analysis, it is important to include language minority populations that are eligible for their programs or activities but may be underserved because of existing language barriers. Other data should be consulted to refine or validate a recipient's prior experience, including the latest census data for the area served, data from school systems and from community organizations, and data from state and local governments.[6] Community agencies, school systems, religious organizations, legal aid entities, and others can often assist in identifying populations for whom outreach is needed and who would benefit from the recipients' programs and activities were language services provided.

(2) The Frequency With Which LEP Individuals Come in Contact With the Program

Recipients should assess, as accurately as possible, the frequency with which they have or should have contact with an LEP individual from different language groups seeking assistance. The more frequent the contact with a particular language group, the more likely that enhanced language services in that language are needed. The steps that are reasonable for a recipient that serves an LEP person on a one-time basis will be very different than those expected from a recipient that serves LEP persons daily. It is also advisable to consider the frequency of different types of language contacts. For example, frequent contacts with Spanish-speaking people who are LEP may require certain assistance in Spanish. Less frequent contact with different language groups may suggest a different and less intensified solution. If an LEP individual accesses a program or service on a daily basis, a recipient has greater duties than if the same individual's program or activity contact is unpredictable or infrequent. But even recipients that serve LEP persons on an unpredictable or infrequent basis should use this balancing analysis to determine what to do if an LEP individual seeks services under the program in question. This plan need not be intricate. It may be as simple as being prepared to use one of the commercially-available telephonic interpretation services to obtain immediate interpreter services. In applying this standard, recipients should take care to consider whether appropriate outreach to LEP persons could increase the frequency of contact with LEP language groups.

(3) The Nature and Importance of the Program, Activity, or Service Provided by the Program

The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed. The obligations to communicate with a person in need of emergency health, fire or law enforcement services may differ, for example, from those to provide information about museum hours, location, exhibits and services. A recipient needs to determine whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual. Decisions by a Federal, State, or local entity to make an activity compulsory, such as educational programs, the provision of a hearing or complaint process, or the communication of Miranda rights, or other rights or warning information, can serve as strong evidence of the program's importance.

(4) The Resources Available to the Recipient and Costs

A recipient's level of resources and the costs that would be imposed on it may have an impact on the nature of the steps it should take. Smaller recipients with more limited budgets are not expected to provide the same level of language services as larger recipients with larger budgets. In addition, ''reasonable steps'' may cease to be reasonable where the costs imposed substantially exceed the benefits.

Resource and cost issues, however, can often be reduced by technological advances; the sharing of language assistance materials and services among and between recipients, advocacy groups, and Federal grant agencies; and reasonable business practices. Where appropriate, training bilingual staff to act as interpreters and translators, information sharing through industry groups, telephonic and video conferencing interpretation services, pooling resources and standardizing documents to reduce translation needs, using qualified translators and interpreters to ensure that documents need not be ''fixed'' later and that inaccurate interpretations do not cause delay or other costs, centralizing interpreter and translator services to achieve economies of scale, or the formalized use of qualified community volunteers, for example, may help reduce costs.[7] Recipients should

[6] The focus of the analysis is on lack of English proficiency, not the ability to speak more than one language. Note that demographic data may indicate the most frequently spoken languages other than English and the percentage of people who speak that language who speak or understand English less than well. Some of the most commonly spoken languages other than English may be spoken by people who are also overwhelmingly proficient in English. Thus, they may not be the languages spoken most frequently by limited English proficient individuals. When using demographic data, it is important to focus in on the languages spoken by those who are not proficient in English.

[7] Small recipients with limited resources may find that entering into a bulk telephonic

Continued

carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource concerns. Large entities and those entities serving a significant number or proportion of LEP persons should ensure that their resource limitations are well-substantiated before using this factor as a reason to limit language assistance. Such recipients may find it useful to be able to articulate, through documentation or in some other reasonable manner, their process for determining that language services would be limited based on resources or costs.

This four-factor analysis necessarily implicates the ''mix'' of LEP services required. Recipients have two main ways to provide language services: Oral interpretation either in person or via telephone interpretation service (hereinafter ''interpretation'') and written translation (hereinafter ''translation''). Oral interpretation can range from on-site interpreters for critical services provided to a high volume of LEP persons to access through commercially-available telephonic interpretation services. Written translation, likewise, can range from translation of an entire document to translation of a short description of the document. In some cases, language services should be made available on an expedited basis while in others the LEP individual may be referred to another office of the recipient for language assistance.

The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis. For instance, a medical clinic in a largely Hispanic neighborhood may need immediate oral interpreters available and should give serious consideration to hiring some bilingual staff. In contrast, there may be circumstances where the importance and nature of the activity and number or proportion and frequency of contact with LEP persons may be low and the costs and resources needed to provide language services may be high, such as in the case of a voluntary tour of a city park and recreation area, in which pre-arranged language services for the particular service may not be necessary. Regardless of the type of language service provided, quality and accuracy of those services can be critical in order to avoid serious consequences to the LEP person and to the recipient. Recipients have substantial flexibility in determining the appropriate mix.

interpretation service contract will prove cost effective.

VI. Selecting Language Assistance Services

Recipients have two main ways to provide language services: Oral and written language services. Quality and accuracy of the language service is critical in order to avoid serious consequences to the LEP person and to the recipient.

A. Oral Language Services (Interpretation)

Interpretation is the act of listening to something in one language (source language) and orally translating it into another language (target language). Where interpretation is needed and is reasonable, recipients should consider some or all of the following options for providing competent interpreters in a timely manner:

Competence of Interpreters. When providing oral assistance, recipients should ensure competency of the language service provider, no matter which of the strategies outlined below are used. Competency requires more than self-identification as bilingual. Some bilingual staff and community volunteers, for instance, may be able to communicate effectively in a different language when communicating information directly in that language, but not be competent to interpret in and out of English. Likewise, they may not be able to do written translations.

Competency to interpret, however, does not necessarily mean formal certification as an interpreter, although certification is helpful. When using interpreters, recipients should ensure that they:

Demonstrate proficiency in and ability to communicate information accurately in both English and in the other language and identify and employ the appropriate mode of interpreting (*e.g.,* consecutive, simultaneous, summarization, or sight translation);

Have knowledge in both languages of any specialized terms or concepts peculiar to the entity's program or activity and of any particularized vocabulary and phraseology used by the LEP person; [8] and understand and follow confidentiality and impartiality rules to the same extent the recipient employee for whom they are interpreting and/or to the extent their position requires.

Understand and adhere to their role as interpreters without deviating into a role as counselor, legal/medical advisor, or other roles (particularly in court, administrative hearings, law enforcement or medical services contexts).

Some recipients, such as courts, may have additional self-imposed requirements for interpreters. Where individual rights depend on precise, complete, and accurate interpretation or translations, particularly in the contexts of courtrooms and custodial or other police interrogations, the use of certified interpreters is strongly encouraged.[9] Where such proceedings are lengthy, the interpreter will likely need breaks and team interpreting may be appropriate to ensure accuracy and to prevent errors caused by mental fatigue of interpreters.

While quality and accuracy of language services is critical, the quality and accuracy of language services is nonetheless part of the appropriate mix of LEP services required. The quality and accuracy of language services in a hospital emergency room, for example, must be extraordinarily high, while the quality and accuracy of language services in a bicycle safety class need not meet the same exacting standards.

Finally, when interpretation is needed and is reasonable, it should be provided in a timely manner. To be meaningfully effective, language assistance should be timely. While there is no single definition for ''timely'' applicable to all types of interactions at all times by all types of recipients, one clear guide is that the language assistance should be provided at a time and place that avoids the effective denial of the service, benefit, or right at issue or the imposition of an undue burden on or delay in important rights, benefits, or services to the LEP person. For example, when the timeliness of services is important, such as with certain activities of GSA recipients providing law enforcement, health, and safety services, and when important legal rights or the LEP individual's health or safety is at issue, a recipient would likely not be providing meaningful access if it had one bilingual staffer available one day a week to provide the service. Such conduct would likely result in delays for LEP persons that

[8] Many languages have ''regionalisms,'' or differences in usage. For instance, a word that may be understood to mean something in Spanish for someone from Cuba may not be so understood by someone from Mexico. In addition, because there may be languages, which do not have an appropriate direct interpretation of, some technical terms and the interpreter should be so aware and be able to provide the most appropriate interpretation. The interpreter should likely make the recipient aware of the issue and the interpreter and recipient can then work to develop a consistent and appropriate set of descriptions of these terms in that language that can be used again, when appropriate.

[9] For those languages in which no formal accreditation or certification currently exists, recipients should consider a formal process for establishing the credentials of the interpreter.

would be significantly greater than those for English proficient persons. Conversely, where access to or exercise of a service, benefit, or right is not effectively precluded by a reasonable delay, language assistance can likely be delayed for a reasonable period.

Hiring Bilingual Staff. When particular languages are encountered often, hiring bilingual staff offers one of the best, and often most economical, options. Recipients can, for example, fill public contact positions, such as 911 operators, police officers, guards, medical/emergency personnel, or program directors, with staff who are bilingual and competent to communicate directly with LEP persons in their language. If bilingual staff is also used to interpret between English speakers and LEP persons, or to orally interpret written documents from English into another language, they should be competent in the skill of interpreting. Being bilingual does not necessarily mean that a person has the ability to interpret. In addition, there may be instances when the role of the employee may conflict with the role of an interpreter (for instance, a staff witness in a school disciplinary hearing may not be appropriate to serve as an interpreter at the same time, even if he or she were skilled at interpreting). Effective management strategies, including any appropriate adjustments in assignments and protocols for using bilingual staff, can ensure that bilingual staff is fully and appropriately utilized. When bilingual staff cannot meet all of the language service obligations of the recipient, the recipient should turn to other options.

Hiring Staff Interpreters. Hiring interpreters may be most helpful where there is a frequent need for interpreting services in one or more languages. Depending on the facts, sometimes it may be necessary and reasonable to provide on-site interpreters to provide accurate and meaningful communication with an LEP person.

Contracting for Interpreters. Contract interpreters may be a cost-effective option when there is no regular need for a particular language skill. In addition to commercial and other private providers, many community-based organizations and mutual assistance associations provide interpretation services for particular languages. Contracting with and providing training regarding the recipient's programs and processes to these organizations can be a cost-effective option for providing language services to LEP persons from those language groups.

Using Telephone Interpreter Lines. Telephone interpreter service lines often offer speedy interpreting assistance in many different languages. They may be particularly appropriate where the mode of communicating with an English proficient person would also be over the phone. Although telephonic interpretation services are useful in many situations, it is important to ensure that, when using such services, the interpreters used are competent to interpret any technical or legal terms specific to a particular program that may be important parts of the conversation. Nuances in language and non-verbal communication can often assist an interpreter and cannot be recognized over the phone. Video teleconferencing may sometimes help to resolve this issue where necessary. In addition, where documents are being discussed, it is important to give telephonic interpreters adequate opportunity to review the document prior to the discussion and any logistical problems should be addressed.

Using Community Volunteers. In addition to consideration of bilingual staff, staff interpreters, or contract interpreters (either in-person or by telephone) as options to ensure meaningful access by LEP persons, use of recipient-coordinated community volunteers, working with, for instance, community-based organizations may provide a cost-effective supplemental language assistance strategy under appropriate circumstances. They may be particularly useful in providing language access for a recipient's less critical programs and activities. To the extent the recipient relies on community volunteers, it is often best to use volunteers who are trained in the information or services of the program and can communicate directly with LEP persons in their language. Just as with all interpreters, community volunteers used to interpret between English speakers and LEP persons, or to orally translate documents, should be competent in the skill of interpreting and knowledgeable about applicable confidentiality and impartiality rules. Recipients should consider formal arrangements with community-based organizations that provide volunteers to address these concerns and to help ensure that services are available more regularly.

Use of Family Members, or Friends or Other Volunteers as Interpreters. Although recipients should not plan to rely on an LEP person's family members, friends, or other informal interpreters to provide meaningful access to important programs and activities, where LEP persons so desire, they should be permitted to use, at their own expense, an interpreter of their own choosing (whether a professional interpreter, family member, friend, other volunteer) in place of or as a supplement to the free language services expressly offered by the recipient. LEP persons may feel more comfortable when a trusted family member, friend, or other individual acts as an interpreter. In addition, in exigent circumstances that are not reasonably foreseeable, temporary use of interpreters not provided by the recipient may be necessary. However, with proper planning and implementation, recipients should be able to avoid most such situations.

Recipients, however, should take special care to ensure that family, legal guardians, caretakers, and other informal interpreters are appropriate in light of the circumstances and subject matter of the program, service or activity, including protection of the recipient's own administrative or enforcement interest in accurate interpretation. In many circumstances, family members (especially children), friends, other individuals are not competent to provide quality and accurate interpretations. Issues of confidentiality, privacy, or conflict of interest may also arise. LEP individuals may feel uncomfortable revealing or describing sensitive, confidential, or potentially embarrassing or sensitive information, such as medical history/condition, previous sexual or violent assault history, family history, or financial information to a family member, friend, or member of the local community.[10]

In addition, such informal interpreters may have a personal connection to the LEP person or an undisclosed conflict of interest, such as the desire to protect themselves or another individual. For these reasons, when oral language services are necessary, recipients should generally offer competent interpreter services free of cost to the LEP person. For GSA recipient programs and activities, this is particularly true in situations in which health, safety, or access to important benefits and services are at stake, or when credibility and accuracy are important to protect an individual's rights and access to important services.

An example of such a case is when police officers respond to a domestic violence call. In such a case, use of family members or neighbors to interpret for the alleged victim, perpetrator, or witnesses may raise

[10] Recipients should take these concerns into consideration when determining whether the LEP individual has made a knowing and voluntary choice for the use of a family, legal guardian, caretaker or other informal interpreter.

serious issues of competency, confidentiality, and conflict of interest and is thus inappropriate. While issues of competency, confidentiality, and conflict of interest in the use of family members (especially children), friends, other inmates or other detainees often make their use inappropriate, the use of these individuals as interpreters may be an appropriate option where proper application of the four factors would lead to a conclusion that recipient-provided services are not necessary. An example of this is a voluntary educational tour of a public building. There, the importance and nature of the activity may be relatively low and unlikely to implicate issues of confidentiality, conflict of interest, or the need for accuracy. In addition, the resources needed and costs of providing language services may be high. In such a setting, an LEP person's use of family, friends, or others may be appropriate.

If the LEP person voluntarily chooses to provide his or her own interpreter, a recipient should consider whether a record of that choice and of the recipient's offer of assistance is appropriate. Where precise, complete, and accurate interpretations or translations of information and/or testimony are critical for medical, safety, law enforcement, adjudicatory, or legal reasons, or where the competency of the LEP person's interpreter is not established, a recipient might decide to provide its own, independent interpreter, even if an LEP person wants to use his or her own interpreter as well. Extra caution should be exercised when the LEP person chooses to use a minor as the interpreter. While the LEP person's decision should be respected, there may be additional issues of competency, confidentiality, or conflict of interest when the choice involves using children as interpreters. The recipient should take care to ensure that the LEP person's choice is voluntary, that the LEP person is aware of the possible problems if the preferred interpreter is a minor child, and that the LEP person knows that a competent interpreter could be provided by the recipient at no cost.

B. Written Language Services (Translation)

Translation is the replacement of a written text from one language (source language) into an equivalent written text in another language (target language).

What Documents Should be Translated? After applying the four-factor analysis, a recipient may determine that an effective LEP plan for its particular program or activity includes the translation of vital written materials into the language of each frequently-encountered LEP group eligible to be served and/or likely to be affected by the recipient's program.

Such written materials could include, for example:

—Consent and complaint forms;
—Intake forms with the potential for important consequences;
—Written notices of rights and responsibilities, denial, loss, or decreases in benefits or services, parole, and other hearings;
—Notices of disciplinary action;
—Notices advising LEP persons of free language assistance;
—Written tests that do not assess English language competency, but test competency for a particular license, job, or skill for which Knowing English is not required; and
—Applications to participate in a recipient's program or activity or to receive recipient benefits or services.

Whether or not a document (or the information it solicits) is ''vital'' may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner. For instance, applications for a fishing class taught at the county lake should not generally be considered vital, whereas applications for drug and alcohol counseling/treatment in a homeless shelter or in prison could be considered vital. Where appropriate, recipients are encouraged to create a plan for consistently determining, over time and across its various activities, what documents are ''vital'' to the meaningful access of the LEP populations they serve.

Classifying a document as vital or non-vital is sometimes difficult, especially in the case of outreach materials like brochures or other information on rights and services. Awareness of rights or services is an important part of ''meaningful access.'' Lack of awareness that a particular program, right, or service exists may effectively deny LEP individuals meaningful access. Thus, where a recipient is engaged in community outreach activities in furtherance of its activities, it should regularly assess the needs of the populations frequently encountered or affected by the program or activity to determine whether certain critical outreach materials should be translated. Community organizations may be helpful in determining what outreach materials may be most helpful to translate. In addition, the recipient should consider whether translations of outreach material may be made more effective when done in tandem with other outreach methods, including utilizing the ethnic media, schools, religious, and community organizations to spread a message.

Sometimes a document includes both vital and non-vital information. This may be the case when the document is very large. It may also be the case when the title and a phone number for obtaining more information on the contents of the document in frequently-encountered languages other than English is critical, but the document is sent out to the general public and cannot reasonably be translated into many languages. Thus, vital information may include, for instance, the provision of information in appropriate languages other than English regarding where a LEP person might obtain an interpretation or translation of the document.

Into What Languages Should Documents be Translated? The languages spoken by the LEP individuals with whom the recipient has contact determine the languages into which vital documents should be translated. A distinction should be made, however, between languages that are frequently encountered by a recipient and less commonly-encountered languages. Many recipients serve communities in large cities or across the country. They regularly serve LEP persons who speak dozens and sometimes over 100 different languages. To translate all written materials into all of those languages is unrealistic. Although recent technological advances have made it easier for recipients to store and share translated documents, such an undertaking would incur substantial costs and require substantial resources. Nevertheless, well-substantiated claims of lack of resources to translate all vital documents into dozens of languages do not necessarily relieve the recipient of the obligation to translate those documents into at least several of the more frequently-encountered languages and to set benchmarks for continued translations into the remaining languages over time. As a result, the extent of the recipient's obligation to provide written translations of documents should be determined by the recipient on a case-by-case basis, looking at the totality of the circumstances in light of the four-factor analysis. Because translation is a one-time expense, consideration should be given to whether the upfront cost of translating a document (as opposed to oral interpretation) should be amortized over the likely lifespan of the document when applying this four-factor analysis.

Safe Harbor. Many recipients would like to ensure with greater certainty that they comply with their obligations to provide written translations in languages other than English. Paragraphs (a) and (b) outline the circumstances that can provide a ''safe harbor'' for recipients regarding the requirements for translation of written materials. A ''safe harbor'' means that if a recipient provides written translations under these circumstances, such action will be considered strong evidence of compliance with the recipient's written-translation obligations.

The failure to provide written translations under the circumstances outlined in paragraphs (a) and (b) does not mean there is non-compliance. Rather, they provide a common starting point for recipients to consider whether and at what point the importance of the service, benefit, or activity involved; the nature of the information sought; and the number or proportion of LEP persons served call for written translations of commonly-used forms into frequently-encountered languages other than English. Thus, these paragraphs merely provide a guide for recipients that would like greater certainty of compliance than can be provided by a fact-intensive, four-factor analysis.

Example: Even if the safe harbors are not used, if written translation of a certain document(s) would be so burdensome as to defeat the legitimate objectives of its program, the translation of the written materials is not necessary. Other ways of providing meaningful access, such as effective oral interpretation of certain vital documents, might be acceptable under such circumstances.

Safe Harbor. The following actions will be considered strong evidence of compliance with the recipient's written-translation obligations:

The GSA recipient provides written translations of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the five percent trigger in (a), the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

These safe harbor provisions apply to the translation of written documents only. They do not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are needed and are reasonable. For example, schools should, where appropriate, ensure that school rules have been explained to LEP students, at orientation, for instance, prior to taking disciplinary action against them.

Competence of Translators. As with oral interpreters, translators of written documents should be competent. Many of the same considerations apply. However, the skill of translating is very different from the skill of interpreting, and a person who is a competent interpreter may or may not be competent to translate.

Particularly where legal or other vital documents are being translated, competence can often be achieved by use of certified translators. Certification or accreditation may not always be possible or necessary.[11] Competence can often be ensured by having a second, independent translator ''check'' the work of the primary translator. Alternatively, one translator can translate the document, and a second, independent translator could translate it back into English to check that the appropriate meaning has been conveyed. This is called ''back translation.''

Translators should understand the expected reading level of the audience and, where appropriate, have fundamental knowledge about the target language group's vocabulary and phraseology. Sometimes direct translation of materials results in a translation that is written at a much more difficult level than the English language version or has no relevant equivalent meaning.[12] Community organizations may be able to help consider whether a document is written at a good level for the audience. Likewise, consistency in the words and phrases used to translate terms of art, legal, or other technical concepts helps avoid confusion by LEP individuals and may reduce costs. Creating or using already-created glossaries of commonly-used terms may be useful for LEP persons and translators and cost effective for the recipient. Providing translators with examples of previous accurate translations of similar material by the recipient, other recipients, or Federal agencies may be helpful.

While quality and accuracy of translation services is critical, the quality and accuracy of translation services is nonetheless part of the appropriate mix of LEP services required. For instance, documents that are simple and have no legal or other consequence for LEP persons who rely on them may use translators that are less skilled than important documents with legal or other information upon which reliance has important consequences (including, *e.g.*, information or documents of GSA recipients regarding certain law enforcement, health and safety service, or certain legal rights). The permanent nature of written translations, however, imposes additional responsibility on the recipient to ensure that the quality and accuracy permit meaningful access by LEP persons.

VII. Elements of Effective Plan on Language Assistance for LEP Persons

After completing the four-factor analysis and deciding what language assistance services are appropriate, a recipient should develop an implementation plan to address the identified needs of the LEP populations they serve. Recipients have considerable flexibility in developing this plan. The development and maintenance of a periodically-updated written plan on language assistance for LEP persons (''LEP plan'') for use by recipient employees serving the public will likely be the most appropriate and cost-effective means of documenting compliance and providing a framework for the provision of timely and reasonable language assistance. Moreover, such written plans would likely provide additional benefits to a recipient's managers in the areas of training, administration, planning, and budgeting. These benefits should lead most recipients to document in a written LEP plan their language assistance services, and how staff and LEP persons can access those services. Despite these benefits, certain GSA recipients, such as recipients serving very few LEP persons and recipients with very limited resources, may choose

[11] For those languages in which no formal accreditation currently exists, a particular level of membership in a professional translation association can provide some indicator of professionalism.

[12] For instance, there may be languages, which do not have an appropriate direct translation of some legal or technical terms, and the translator should be able to provide an appropriate translation. The translator should likely also make the recipient aware of this. Recipients can then work with translators to develop a consistent and appropriate set of descriptions of these terms in that language that can be used again, when appropriate. Recipients will find it more effective and less costly if they try to maintain consistency in the words and phrases used to translate terms of art and legal or other technical concepts. Creating or using already created glossaries of commonly used terms may be useful for LEP persons and translators and cost effective for the recipient. Providing translators with examples of previous translations of similar material by the recipient, other recipients, or federal agencies may be helpful.

not to develop a written LEP plan. However, the absence of a written LEP plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to a recipient's program or activities. Accordingly, in the event that a recipient elects not to develop a written plan, it should consider alternative ways to articulate in some other reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, religious organizations, community groups, and groups working with new immigrants can be very helpful in providing important input into this planning process from the beginning. The following five steps may be helpful in designing an LEP plan and are typically part of effective implementation plans.

(1) Identifying LEP Individuals Who Need Language Assistance. The first two factors in the four-factor analysis require an assessment of the number or proportion of LEP individuals eligible to be served or encountered and the frequency of encounters. This requires recipients to identify LEP persons with whom it has contact.

One way to determine the language of communication is to use language identification cards (or ''I speak cards''), which invite LEP persons to identify their language needs to staff. Such cards, for instance, might say, ''I speak Spanish'' in both Spanish and English, ''I speak Vietnamese'' in both English and Vietnamese, etc. To reduce costs of compliance, the Federal government has made a set of these cards available on the Internet. The Census Bureau ''I speak card'' can be found and downloaded at *http://www.lep.gov.* When records are normally kept of past interactions with members of the public, the language of the LEP person can be included as part of the record. In addition to helping employees identify the language of LEP persons they encounter, this process will help in future applications of the first two factors of the four-factor analysis. In addition, posting notices in commonly encountered languages notifying LEP persons of language assistance will encourage them to self-identify.

(2) Language Assistance Measures. An effective LEP plan would likely include information about the ways in which language assistance will be provided. For instance, recipients may want to include information on at least the following:

—Types of language services available.
—How staff can obtain those services.
—How to respond to LEP callers.
—How to respond to written communications from LEP persons.
—How to respond to LEP individuals who have in-person contact with recipient staff.
—How to ensure competency of interpreters and translation services.

(3) Training Staff. Staff should know their obligations to provide meaningful access to information and services for LEP persons. An effective LEP plan would likely include training to ensure that:

—Staff knows about LEP policies and procedures.
—Staff having contact with the public (or those in a recipient's care) are trained to work effectively with in-person and telephone interpreters.

Recipients may want to include this training as part of the orientation for new employees. It is important to ensure that all employees in public contact positions (or having contact with those in a recipient's care) are properly trained. Recipients have flexibility in deciding the manner in which the training is provided. The more frequent the contact with LEP persons, the greater the need will be for in-depth training. Staff with little or no contact with LEP persons may only have to be aware of an LEP plan. However, management staff, even if they do not interact regularly with LEP persons, should be fully aware of and understand the plan so they can reinforce its importance and ensure its implementation by staff.

(4) Providing Notice to LEP Persons. Once an agency has decided, based on the four factors, that it will provide language services, it is important for the recipient to let LEP persons know that those services are available and that they are free of charge. Recipients should provide this notice in a language LEP persons will understand. Examples of notification that recipients should consider include:

(a) Posting signs in intake areas and other entry points. When language assistance is needed to ensure meaningful access to information and services, it is important to provide notice in appropriate languages in intake areas or initial points of contact so that LEP persons can learn how to access those language services. This is particularly true in areas with high volumes of LEP persons seeking access to certain health, safety, or law enforcement services or activities run by GSA recipients. For instance, signs in intake offices could state that free language assistance is available. The signs should be translated into the most common languages encountered. They should explain how to get the language help.[13]

(b) Stating in outreach documents that language services are available from the agency. Announcements could be in, for instance, brochures, booklets, and in outreach and recruitment information. These statements should be translated into the most common languages and could be ''tagged'' onto the front of common documents.

(c) Working with community-based organizations and other stakeholders to inform LEP individuals of the recipients' services, including the availability of language assistance services.

(d) Using a telephone voice mail menu. The menu could be in the most common languages encountered. It should provide information about available language assistance services and how to get them.

(e) Including notices in local newspapers in languages other than English.

(f) Providing notices on non-English-language radio and television stations about the available language assistance services and how to get them.

(g) Presentations and/or notices at schools and religious organizations.

(5) *Monitoring and Updating the LEP Plan.* Recipients should, where appropriate, have a process for determining, on an ongoing basis, whether new documents, programs, services, and activities need to be made accessible for LEP individuals, and they may want to provide notice of any changes in services to the LEP public and to employees. In addition, recipients should consider whether changes in demographics, types of services, or other needs require annual reevaluation of their LEP plan. Less frequent reevaluation may be more appropriate where demographics, services, and needs are more static. One good way to evaluate the LEP plan is to seek feedback from the community.

In their reviews, recipients may want to consider assessing changes in:

—Current LEP populations in service area or population affected or encountered.
—Frequency of encounters with LEP language groups.
—Nature and importance of activities to LEP persons.
—Availability of resources, including technological advances and sources of additional resources, and the costs imposed.

[13] The Social Security Administration has made such signs available at *http:/www.ssa.gov/multilanguage/lanlist.htm.* These signs could, for example, be modified for recipient use.

—Whether existing assistance is meeting the needs of LEP persons.
—Whether staff knows and understands the LEP plan and how to implement it.
—Whether identified sources for assistance are still available and viable.

In addition to these five elements, effective plans set clear goals, management accountability, and opportunities for community input and planning throughout the process.

VIII. Voluntary Compliance Effort

The goal for Title VI and Title VI regulatory enforcement is to achieve voluntary compliance. The requirement to provide meaningful access to LEP persons is enforced and implemented by GSA through the procedures identified in the Title VI regulations. These procedures include complaint investigations, compliance reviews, efforts to secure voluntary compliance, and technical assistance.

The Title VI regulations provide that GSA will investigate whenever it receives a complaint, report, or other information that alleges or indicates possible noncompliance with Title VI or its regulations. If the investigation results in a finding of compliance, GSA will inform the recipient in writing of this determination, including the basis for the determination. GSA is committed to using voluntary compliance (informal resolution) to resolve findings of noncompliance. However, if a case is fully investigated and results in a finding of noncompliance, GSA must inform the recipient of the noncompliance through a Letter of Findings that sets out the areas of noncompliance and the steps that must be taken to correct the noncompliance. It must attempt to secure voluntary compliance through informal means. If the matter cannot be resolved informally, GSA must secure compliance through the termination of Federal assistance after the GSA recipient has been given an opportunity for an administrative hearing and/or by referring the matter to the DOJ to seek injunctive relief or pursue other enforcement proceedings. GSA engages in voluntary compliance efforts and provides technical assistance to recipients at all stages of an investigation. During these efforts, GSA proposes reasonable timetables for achieving compliance and consults with and assists recipients in exploring cost-effective ways of coming into compliance. In determining a recipient's compliance with the Title VI regulations, GSA's primary concern is to ensure that the recipient's policies and procedures provide meaningful access for LEP persons to the recipient's programs and activities.

While all recipients must work toward building systems that will ensure access for LEP individuals, GSA acknowledges that the implementation of a comprehensive system to serve LEP individuals is a process and that a system will evolve over time as it is implemented and periodically reevaluated. As recipients take reasonable steps to provide meaningful access to Federally assisted programs and activities for LEP persons, GSA will look favorably on intermediate steps recipients take that are consistent with this Guidance, and that, as part of a broader implementation plan or schedule, move their service delivery system toward providing full access to LEP persons. This does not excuse noncompliance but instead recognizes that full compliance in all areas of a recipient's activities and for all potential language minority groups may reasonably require a series of implementing actions over a period of time. However, in developing any phased implementation schedule, GSA recipients should ensure that the provision of appropriate assistance for significant LEP populations or with respect to activities having a significant impact on the health, safety, legal rights, or livelihood of beneficiaries is addressed first. Recipients are encouraged to document their efforts to provide LEP persons with meaningful access to Federally assisted programs and activities.

IX. Application to Specific Types of Recipients

GSA's recipients are in excess of 66,000 and represent State, county, city and local government agencies *e.g.*, transportation departments, parks/recreation departments, education departments, labor departments, health departments, correctional facilities/police departments, emergency 9–1–1, local fire departments (to include volunteer fire departments; housing authorities; schools (public and private); hospitals, health clinics, medical centers; day care centers, to include Head Start; homeless shelters, domestic abuse shelters, food banks, and other eligible non-profits.

The requirements of the Title VI regulations, as clarified by this guidance, supplement, but do not supplant, constitutional and other statutory or regulatory provisions that may require LEP services. Thus, a proper application of the four-factor analysis and compliance with the Title VI regulations does not replace constitutional or other statutory protections mandating information, warnings and notices in languages other than English, such as in the criminal justice context. Rather, this guidance clarifies the Title VI regulatory obligation to address, in appropriate circumstances and in a reasonable manner, the language assistance needs of LEP individuals beyond those required by the Constitution or statutes and regulations other than the Title VI regulations.

The following examples are provided to assist recipients in determining their responsibilities with regard to LEP individuals:

(1) A county has very few residents who are LEP. However, many Vietnamese-speaking LEP motorists go through a major freeway running through the county, which connects two areas with high populations of Vietnamese speaking LEP individuals. As a result, the Traffic Division of the county court processes a large number of LEP persons, but it has taken no steps to train staff or provide forms or other language access in that Division because of the small number of LEP individuals in the county. The Division should assess the number and proportion of LEP individuals processed by the Division and the frequency of such contact. With those numbers high, the Traffic Division may find that it needs to provide key forms or instructions in Vietnamese. It may also find, from talking with community groups, that many older Vietnamese LEP individuals do not read Vietnamese well, and that it should provide oral language services as well. The court may already have Vietnamese-speaking staff competent in interpreting in a different section of the court; it may decide to hire a Vietnamese-speaking employee who is competent in the skill of interpreting; or it may decide that a telephonic interpretation service suffices.

(2) A shelter for victims of domestic violence is operated by a recipient of GSA funds and located in an area where 15 percent of the women in the service area speak Spanish and are LEP. Seven percent of the women in the service area speak various Chinese dialects and are LEP. The shelter uses community volunteers to help translate vital outreach materials into Chinese (which is one written language despite many dialects) and Spanish. The shelter hotline has a menu providing key information, such as location, in English, Spanish, and two of the most common Chinese dialects. Calls for immediate assistance are handled by the bilingual staff. The shelter has one counselor and several volunteers fluent

in Spanish and English. Some volunteers are fluent in different Chinese dialects and in English. The shelter works with community groups to access interpreters in the several Chinese dialects that they encounter. Shelter staff trains the community volunteers in the sensitivities of domestic violence intake and counseling. Volunteers sign confidentiality agreements. The shelter is looking for a grant to increase its language capabilities despite its tiny budget. These actions constitute strong evidence of compliance.

(3) A small childcare center has three LEP parents (two who speak Mandarin and one speaks Spanish) whose English-speaking children attend its childcare center on a regular basis. The center has a staff of six, and has limited financial resources to afford to hire bilingual staff, contract with a professional interpreter service, or translate written documents. To accommodate the language needs of their LEP parents, the Center made arrangements with a Chinese and a Hispanic community organization for trained and competent volunteer interpreters in the appropriate language, and with a telephone interpreter language line, to interpret during parent meetings and to orally translate written documents. There have been no client complaints of inordinate delays or other service related problems with respect to LEP clients. The assistance that the childcare center is providing will probably be considered appropriate, given the center's resources, the size of staff, and the size of the LEP population. Thus, OCR would consider this strong evidence of compliance.

(4) A county social service program that administers the State's welfare and health programs has a large budget. Their service area encompasses an eligible service population of 500,000. Thirty-five hundred individuals in the serviced population are LEP and speak a Chinese dialect; 4,000 individuals in the serviced population are LEP and speak Spanish; 2000 individuals in the serviced population are LEP and speak Vietnamese; and 400 individuals are LEP and speak Vietnamese. The county has translated vital documents, *i.e.*, applications and program brochures, into Chinese, Spanish, and Vietnamese. Therefore, with regard to translation of vital documents, OCR would consider this strong evidence of compliance, consistent with the safe harbor provision in GSA's guidance. Additionally, the county should adequately address and provide needed interpretation services to their LEP clients (*i.e.*, hiring bilingual staff or contracting with a language service provider).

Permanent Versus Seasonal Populations. In many communities, resident populations change over time or season. For example, in some resort communities, populations swell during peak vacation periods, many times exceeding the number of permanent residents of the jurisdiction. In other communities, primarily agricultural areas, transient populations of workers may require increased services during the relevant harvest season. This dynamic demographic ebb and flow can also dramatically change the size and nature of the LEP community likely to come into contact with the recipient. Thus, recipients should not limit their analysis to numbers and percentages of permanent residents. In assessing factor one—the number or proportion of LEP individuals—emergency service providers should consider any significant but temporary changes in a jurisdiction's demographics.

[FR Doc. 03–18658 Filed 7–22–03; 8:45 am]
BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting of a Health Care Policy and Research Special Emphasis Panel

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of a Health Care Policy and Research Special Emphasis Panel (SEP) meeting.

The Health Care Policy and Research Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Healthcare Research and Quality (AHRQ), and agree to be available, to conduct on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or long periods of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Substantial segments of the upcoming SEP meeting listed below will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications for AHRQ Partnerships for Quality Competing Continuation (R18) Awards are to be reviewed and discussed at this meeting. These discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure under the above-cited statutes.

SEP Meeting on: AHRQ Partnerships for Quality Competing Continuation (R18) Awards.

Date: August 5, 2003 (open on August 5 from 11 a.m. to 11:10 a.m. and closed for the remainder of the Teleconference).

Place: John M. Eisenberg, M.D. Building, 540 Gaither Road, Room 2020, Rockville, Maryland 20850.

Contact Person: Anyone wishing to obtain a roster of members, agenda or minutes of the nonconfidential portions of this meeting should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Research Review, Education and Policy, AHRQ, 540 Gaither Road, Room 2038, Rockville, Maryland 20850, Telephone (301) 427–1554.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: July 14, 2003.

Carolyn M. Clancy,

Director.

[FR Doc. 03–18718 Filed 7–22–03; 8:45 am]
BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Collection of Specimen Panels for Validation for Incidence Assays, Contract Solicitation Number 2003–N–00872; Correction

SUMMARY: This notice was published in the **Federal Register** on July 8, 2003, Volume 68, Number 130, Page 40676. The meeting date, time and location have been revised.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Collection of Specimen Panels for Validation for Incidence Assays, Contract Solicitation Number 2003–N–00872.

Action: The meeting times and dates have been revised as follows:

Times and Dates: 12:30 p.m.–1 p.m., July 25, 2003 (Open); 1 p.m.–3:30 p.m., July 25, 2003 (Closed).

Action: The meeting place has been revised as follows:

Place: Teleconference Number: 1–888–677–1828 passcode 5772091 for the Open portion of the meeting and 1–888–829–8669 for the Closed portion of the meeting.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Pub. L. 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Contract Solicitation Number 2003–N–00872.

For Further Information Contact: Esther Sumartojo, Ph.D., Deputy Associate Director for Science, National Center for HIV, STD, and TB Prevention, CDC, 1600 Clifton Road, NE, MS–E07, Atlanta, GA 30333, Telephone 404.639.8006.

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: July 17, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 03–18793 Filed 7–22–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0084]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Electronic Records; Electronic Signatures

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by August 22, 2003.

ADDRESSES: OMB is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Fumie Yokota, Desk Officer for FDA, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Electronic Records; Electronic Signatures—21 CFR Part 11 (OMB Control No. 0910–0303)—Extension

The FDA regulations in part 11 (21 CFR part 11) provide criteria for acceptance of electronic records, electronic signatures, and handwritten signatures executed to electronic records as equivalent to paper records. Under these regulations, records and reports may be submitted to FDA electronically provided that the agency has stated its ability to accept the records electronically in an agency-established public docket and that the other requirements of part 11 are met.

The recordkeeping provisions in part 11 (§§ 11.10, 11.30, 11.50, and 11.300) require standard operating procedures to assure appropriate use of, and precautions for, systems using electronic records and signatures: (1) § 11.10 specifies procedures and controls for persons who use closed systems to create, modify, maintain, or transmit electronic records; (2) § 11.30 specifies procedures and controls for persons who use open systems to create, modify, maintain, or transmit electronic records; (3) § 11.50 specifies procedures and controls for persons who use electronic signatures; and (4) § 11.300 specifies controls to ensure the security and integrity of electronic signatures based upon use of identification codes in combination with passwords.

The reporting provision (§ 11.100) requires persons to certify in writing to FDA that they will regard electronic signatures used in their systems as the legally binding equivalent of traditional handwritten signatures.

The burden created by the information collection provision of this regulation is a one-time burden associated with the creation of standard operating procedures, validation, and certification. The agency anticipates the use of electronic media will substantially reduce the paperwork burden associated with maintaining FDA required records.

The respondents will be businesses and other for-profit organizations, state or local governments, Federal agencies, and nonprofit institutions.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
11.100	4,500	1	4,500	1	4,500

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
11.10	2,500	1	2,500	20	45,000

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]—Continued

21 CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
11.30	2,500	1	2,500	20	45,000
11.50	4,500	1	4,500	20	90,000
11.300	4,500	1	4,500	20	90,000
Total					270,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

In the **Federal Register** of March 26, 2003 (68 FR 14663), FDA published a 60-day notice requesting public comment on the information collection provisions. Three comments were received. All three were submitted to the docket in error. One was a comment meant for the part 11 scope and application draft guidance. One was an opinion on medical device approvals. The last comment was questions from an individual related to electronic records.

Dated: July 17, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–18690 Filed 7–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0142]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Guidance for Industry on Submitting and Reviewing Complete Responses to Clinical Holds

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by August 22, 2003.

ADDRESSES: The Office of Management and Budget (OMB) is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Fumie Yokota, Desk Officer for FDA, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Guidance for Industry—Submitting and Reviewing Complete Responses to Clinical Holds—OMB Control Number 0910–0445—Extension

Section 117 of the Food and Drug Administration Modernization Act (Public Law 105–115), signed into law by the President on November 21, 1997, provides that a written request to FDA from the applicant of an investigation that a clinical hold be removed shall receive a decision in writing, specifying the reasons for that decision, within 30 days after receipt of such request. A clinical hold is an order issued by FDA to the applicant to delay a proposed clinical investigation or to suspend an ongoing investigation for a drug or biologic. An applicant may respond to a clinical hold.

Under section 505(i)(3)(C) of the Federal Food, Drug, and Cosmetic Act, any written request to FDA from the sponsor of an investigation that a clinical hold be removed must receive a decision, in writing and specifying the reasons, within 30 days after receipt of the request. The request must include sufficient information to support the removal of the clinical hold.

In the **Federal Register** of May 14, 1998 (63 FR 26809), FDA published a notice of availability of a guidance that described how applicants should submit responses to clinical holds so that they may be identified as complete responses and the agency can track the time to respond. After considering the comment received on that guidance, FDA issued a revised guidance in October 2000. In the **Federal Register** of April 21, 2003 (68 FR 19545), FDA published a notice requesting comment on this information collection. No comments were received pertaining to the information collection.

The revised guidance states that FDA will respond in writing within 30-calendar days of receipt of a sponsor's request to release a clinical hold and a complete response to the issue(s) that led to the clinical hold. An applicant's complete response to an IND clinical hold is a response in which all clinical hold issues identified in the clinical hold letter have been addressed.

The guidance requests that applicants type ''Clinical Hold Complete Response'' in large, bold letters at the top of the cover letter of the complete response to expedite review of the response. The guidance also requests that applicants submit the complete response letter in triplicate to the IND, and that they fax a copy of the cover letter to the FDA contact listed in the clinical hold letter who is responsible for the IND. The guidance requests more than an original and two copies of the cover letter in order to ensure that the submission is received and handled in a timely manner.

Based on data concerning the number of complete responses to clinical holds received by the Center for Drug Evaluation and Research (CDER) in fiscal year 2001 and 2002, CDER estimates that approximately 41 responses are submitted annually from approximately 29 applicants, and that it takes approximately 284 hours to prepare and submit to CDER each response.

Based on data concerning the number of complete responses to clinical holds received by the Center for Biologics Evaluation and Research (CBER) in fiscal year 2001 and 2002, CBER estimates that approximately 123 responses are submitted annually from approximately 78 applicants, and that it takes approximately 284 hours to

prepare and submit to CBER each response.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Complete Responses to Clinical Holds	Number of Respondents	Number of Responses Per Respondent	Total Annual Responses	Hours Per Response	Total Hours
CDER	29	approximately 1	41	284	11,644
CBER	78	1.58	123	284	34,932
Total					46,576

[1]There are no capital cost or operating and maintenance costs associated with this collection of information.

Dated: July 17, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–18691 Filed 7–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0314]

Agency Information Collection Activities; Proposed Collection; Comment Request; Food Labeling; Notification Procedures for Statements on Dietary Supplements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the regulation requiring manufacturers, packers, and distributors of dietary supplements to notify FDA that they are marketing a dietary supplement product that bears on its label or in its labeling a statement provided for in the Federal Food, Drug, and Cosmetic Act (the act).

DATES: Submit written or electronic comments on the collection of information by September 22, 2003.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.fda.gov/ecomments*. Submit written comments to the Division of Dockets Management (HFA–305), 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Management Programs (HFA–305), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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 respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Food Labeling; Notification Procedures for Statements on Dietary Supplements—21 CFR Part 101.93 (OMB Control Number 0910–0331)—Extension

Section 403(r)(6) of the act (21 U.S.C. 343(r)(6)) requires that the agency be notified by manufacturers, packers, and distributors of dietary supplements that they are marketing a dietary supplement product that bears on its label or in its labeling a statement provided for in section 403(r)(6) of the act. Section 403(r)(6) of the act requires that the agency be notified, with a submission about such statements, no later than 30 days after the first marketing of the dietary supplement. Information that is required in the submission includes: (1) The name and address of the manufacturer, packer, or distributor of the dietary supplement product; (2) the text of the statement that is being made; (3) the name of the dietary ingredient or supplement that is the subject of the statement; (4) the name of the dietary supplement (including the brand name); and (5) a signature of a responsible individual who can certify the accuracy of the information presented, who must certify that the information contained in the notice is complete and accurate, and that the notifying firm has substantiation that the statement is truthful and not misleading.

The agency established § 101.93 (21 CFR 101.93) as the procedural regulation for this program. Section 101.93 provides details of the procedures associated with the submission and identifies the information that must be included in order to meet the requirements of section 403 of the act (21 U.S.C. 343).

Description of Respondents: Businesses or other for-profit organizations.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
101.93	2,500	1	2,500	.75	1,875

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The agency believes that there will be minimal burden on the industry to generate information to meet the requirements of section 403 of the act in submitting information regarding section 403(r)(6) of the act statements on labels or in labeling of dietary supplements. The agency is requesting only information that is immediately available to the manufacturer, packer, or distributor of the dietary supplement that bears such a statement on its label or in its labeling. This estimate is based on the average number of notification submissions received by the agency in the preceding 12 months.

Dated: July 17, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–18693 Filed 7–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0069]

Agency Emergency Processing Under OMB Review; Submission of Validation Data for Reprocessed Single-Use Devices; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of July 8, 2003 (68 FR 40676). The notice announced that a proposed collection of information had been submitted to the Office of Management and Budget (OMB) for emergency processing under the Paperwork Reduction Act of 1995 (the PRA). The proposed collection of information will be used by FDA to determine whether reprocessed single-use devices are substantially equivalent to legally marketed predicate devices. The document was inadvertently published with an error. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Joyce Strong, Office of Policy and Planning (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

SUPPLEMENTARY INFORMATION: In FR Doc. 03–17136, appearing on page 40676 in the **Federal Register** of Tuesday, July 8, 2003, the following correction is made:

1. On page 40677, in the first column, under **ADDRESSES**, in the eighth line, ''electronically mailed to sshapiro@omb.eop.gov or faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Stuart Shapiro'' is corrected to read ''faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Fumie Yokota''.

Dated: July 17, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–18692 Filed 7–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Drug Safety and Risk Management Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Drug Safety and Risk Management Advisory Committee. This meeting was announced in the **Federal Register** of June 30, 2003 (68 FR 38713). The amendment is being made to reflect a change in the *Location* portion of the document. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Kimberly Littleton Topper, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800-741–8138 (301–443–0572 in the Washington, DC area), code 12535. Please call the Information Line for up-to-date information on this meeting.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 30, 2003, FDA announced that a meeting of the Drug Safety and Risk Management Advisory Committee would be held on September 18, 2003. On page 38714, in the first column, the *Location* portion of the meeting is amended to read as follows:

Location: Holiday Inn, the Ballroom, 8777 Georgia Ave., Silver Spring, MD.

This notice is given under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: July 17, 2003.

Peter J. Pitts,

Associate Commissioner for External Relations.

[FR Doc. 03–18633 Filed 7–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Neurological Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of the Committee: Neurological Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on August 5, 2003, from 10 a.m. to 5:30 p.m.

Location: Holiday Inn, Walker/Whetstone Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact: Janet L. Scudiero, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1184, ext. 176, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12513. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application for a neurological embolization device. Background information for the topic, including the agenda and questions for the committee, will be available to the public 1 business day before the meeting on the Internet at *http://www.fda.gov/cdrh/panel/index.html*. Material will be posted on August 4, 2003.

Procedure: On August 5, 2003, from 10:30 a.m. to 5:30 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by August 1, 2003. Oral presentations from the public will be scheduled between approximately 10:45 a.m. and 11:15 a.m. and 3:30 p.m. and 4 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before August 1, 2003, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On August 5, 2003, from 10 a.m. to 10:30 a.m., the meeting will be closed to the public to permit discussion of trade secret and/or confidential information regarding neurological device issues (5 U.S.C. 552b(c)(4)).

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Shirley Meeks, Conference Management Staff, at 301–594–1283, ext. 105, at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 17, 2003.

Peter J. Pitts,

Associate Commissioner for External Relations.

[FR Doc. 03–18635 Filed 7–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pulmonary-Allergy Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pulmonary-Allergy Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 5, 2003, from 8 a.m. to 5:30 p.m.

Location: Holiday Inn, The Ballrooms, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Kimberly Littleton Topper, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12545. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss new drug application (NDA) 21–573, Ariflo (cilomilast) Tablets, 15 milligrams, by GlaxoSmithKline, for use in chronic obstructive pulmonary disease (COPD).

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by September 2, 2003. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before September 2, 2003, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kimberly Littleton Topper at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 17, 2003.

Peter J. Pitts,

Associate Commissioner for External Relations.

[FR Doc. 03–18636 Filed 7–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003D–0263]

Draft Guidance for Industry: Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a level 1 draft guidance entitled ''Guidance for Industry: Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency'' (the draft guidance). This draft guidance presents FDA's general policy for implementing the channels of trade provision in the Federal Food, Drug, and Cosmetic Act (the act), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: Submit written or electronic comments by September 22, 2003 to ensure adequate consideration in the preparation of the guidance document. Comments on this draft guidance may be submitted at any time. Submit comments on the collection of information by September 22, 2003.

ADDRESSES: Submit written requests for single copies of the draft guidance entitled ''Guidance for Industry: Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have

Been Revoked, Suspended, or Modified by the Environmental Protection Agency'' to Michael E. Kashtock, Center for Food Safety and Applied Nutrition (CFSAN) (see **FOR FURTHER INFORMATION CONTACT**). Include a self-addressed adhesive label to assist that office in processing your request.

Submit written comments concerning the draft guidance and the information collection provisions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane., rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Center for Food Safety and Applied Nutrition (CFSAN) (HFS–305), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–2022, FAX: 301–436–2651, e-mail: *mkashtoc@cfsan.fda.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On August 3, 1996, the FQPA was signed into law. This law, which amends the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the act, established a new safety standard for pesticide residues in food, with an emphasis on protecting the health of infants and children. The Environmental Protection Agency (EPA) is responsible for regulating the use of pesticides (under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)) and for establishing tolerances or exemptions from the requirement for tolerances for residues of pesticide chemicals in food commodities (under the act). EPA, in accordance with the FQPA, is in the process of reassessing the pesticide tolerances and exemptions which were in effect when the FQPA was signed into law. When EPA determines that a pesticide's tolerance level does not meet the safety standard under section 408 of the act (21 U.S.C. 346a), the registration for the pesticide may be canceled under FIFRA for all or certain uses. In addition, the tolerances for that pesticide may be lowered or revoked for the corresponding food commodities. Under section 408(l)(2) of the act, when the registration for a pesticide is canceled or modified due in whole or in part to dietary risks to humans posed by residues of that pesticide chemical on food, the effective date for the revocation of such tolerance (or exemption in some cases) must be no later than 180 days after the date such cancellation becomes effective or 180 days after the date on which the use of the canceled pesticide becomes unlawful under the terms of the cancellation, whichever is later.

When EPA takes such actions, food derived from a commodity that was lawfully treated with the pesticide may not have cleared the channels of trade by the time the revocation or new tolerance level takes effect. The food could be found by FDA, the agency that is responsible for monitoring pesticide residue levels and enforcing the pesticide tolerances in most foods (the U.S. Department of Agriculture (USDA) has responsibility for monitoring residue levels and enforcing pesticide tolerances in egg products and most meat and poultry products), to contain a residue of that pesticide that does not comply with the revoked or lowered tolerance. FDA would normally deem such food to be in violation of the law by virtue of it bearing an illegal pesticide residue. The food would be subject to FDA enforcement action as an ''adulterated'' food. However, the channels of trade provision of the act addresses the circumstances under which a food is not unsafe solely due to the presence of a residue from a pesticide chemical for which the tolerance has been revoked, suspended, or modified by EPA. The channels of trade provision (section 408(l)(5) of the act) states the following:

> PESTICIDE RESIDUES RESULTING FROM LAWFUL APPLICATION OF A PESTICIDE.—Notwithstanding any other provision of this Act, if a tolerance or exemption for a pesticide chemical residue in or on a food has been revoked, suspended, or modified under this section, an article of that food shall not be deemed unsafe solely because of the presence of such pesticide chemical residue in or on such food if it is shown to the satisfaction of the Secretary that-
>
> (A) the residue is present as the result of an application or use of a pesticide at a time and in a manner that was lawful under the Federal Insecticide, Fungicide, and Rodenticide Act; and
>
> (B) the residue does not exceed a level that was authorized at the time of that application or use to be present on the food under a tolerance, exemption, food additive regulation, or other sanction then in effect under this Act;
>
> unless, in the case of any tolerance or exemption revoked, suspended, or modified under this subsection or subsection (d) or (e), the Administrator has issued a determination that consumption of the legally treated food during the period of its likely availability in commerce will pose an unreasonable dietary risk.

FDA anticipates that food bearing lawfully applied residues of pesticide chemicals that are the subject of future EPA action the act to revoke, suspend, or modify their tolerances, will remain in the channels of trade after the applicable tolerance is revoked, suspended, or modified. If FDA encounters food bearing a residue of a pesticide chemical for which the tolerance has been revoked, suspended, or modified, it intends to address the situation in accordance with this draft guidance. FDA has developed this draft guidance to set forth its policy for how the agency plans to approach its enforcement of the channels of trade provision in the act with respect to pesticide chemicals that are subject to future EPA action to revoke, suspend, or modify their tolerances.

FDA is announcing the availability of this level 1 draft guidance. The draft guidance when finalized, will represent FDA's current thinking on its planned enforcement approach to the channels of trade provision of the act and how such provision relates to FDA regulated products with residues of pesticide chemicals for which tolerances have been revoked, suspended, or modified. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. You can use an alternative approach if the approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach, contact the FDA staff responsible for implementing the guidance. If you cannot identify the appropriate FDA staff, call the telephone number listed on the title page of the guidance. The draft guidance is being distributed for comment purposes, in accordance with the FDA's good guidance practices regulation in 21 CFR 10.115(g).

II. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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 respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Title: Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency

Description: Under the pesticide tolerance reassessment process that EPA was mandated to carry out under the FQPA, EPA is expected to revoke, suspend, or modify tolerances for the pesticide chemicals on various food commodities. Section 408(l)(5) of the act includes a provision, referred to as the ''channels of trade provision,'' that addresses the circumstances under which a food will not be deemed unsafe solely due to the presence of a residue from a pesticide chemical whose tolerance has been revoked, suspended, or modified by EPA.

In general, FDA anticipates that the party responsible for food found to contain the previously mentioned pesticide chemical residues (within the former tolerance) after the tolerance for the pesticide chemical has been revoked, suspended, or modified will be able to demonstrate that such food was handled, e.g., packed or processed, during the acceptable timeframes cited in the draft guidance by providing appropriate documentation to the agency as discussed in the draft guidance document. FDA is not suggesting that firms maintain an inflexible set of documents where anything less or different would likely be considered unacceptable. Rather, the agency is leaving it to each firm's discretion to maintain appropriate documentation to demonstrate that the food was so handled during the acceptable timeframes.

Examples of documentation which FDA anticipates will serve this purpose consist of documentation associated with packing codes, batch records, and inventory records. These are types of documents that many food processors routinely generate as part of their basic food-production operations.

Description of Respondents: The likely respondents to this collection of information are firms in the produce and food-processing industries that handle food products that may contain residues of pesticide chemicals after the tolerances for the pesticide chemicals have been revoked, suspended, or modified.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
652	1	652	3	1,956

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA does not know which pesticide chemicals will have their tolerances revoked, suspended, or modified in the future. Instead of calculating the paperwork burden for any one pesticide, FDA calculated the cost for an ''average'' pesticide by looking at test results for 417 pesticide chemicals on domestic products and 450 pesticide chemicals on imported products. FDA then used the average percent of samples found with residues as a substitute for the rate of residues found from a specific pesticide chemical.

The estimated annual reporting burden was determined using the average percent of samples found with residues for all pesticides for domestic and imported products. Using 1999 pesticide monitoring data, domestic products were tested for residues of 417 pesticide chemicals. On average, 1.02 percent of samples tested positive for a given pesticide chemical. For 450 pesticides tested for residues on imported products, on average 2.40 percent of samples contained a given pesticide chemical residue. This rate of positive findings for product samples was applied to the number of potentially affected establishments, 3,730 importers and 23,201 domestic businesses, giving an expected number of 326 potentially-affected businesses per revocation, suspension, or modification of a tolerance. FDA expects this number to be an overestimate of the number of affected businesses for two reasons. One, the positive residue test may be below the new tolerance. Second, tolerances may not be altered for all products. If the tolerance was altered for only vegetables but not fruit, then the number of affected establishments would be smaller. We assume two pesticide tolerances are altered per year, resulting in 652 businesses reporting per year. To date, tolerances have been revoked for two pesticide chemicals. However, FDA expects the total number of pesticide tolerances that are revoked, suspended, or modified by EPA to increase.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours	Capital Costs
65	1	65	16	1,040	$32,571

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

In determining the estimated annual recordkeeping burden, FDA estimated that at least 90 percent of firms maintain documentation, such as packing codes, batch records, and inventory records, as part of their basic food production or

import operations. Therefore, the recordkeeping burden was calculated as the time required for the 10 percent of firms that may not currently be maintaining this documentation to develop and maintain documentation, such as batch records and inventory records. For firms that do not maintain documentation, such as batch records and inventory records, as part of their normal manufacturing operations, it was estimated that with $500 or less, the necessary software and hardcopy filing systems could be obtained to implement a system.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this draft guidance. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

An electronic version of this draft guidance is available on the Internet at *http://www.cfsan.fda.gov/guidance.html*.

Dated: July 14, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–18634 Filed 7–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003D–0282]

Guidance for Industry and FDA Staff; Medical Device User Fee and Modernization Act of 2002, Validation Data in Premarket Notification Submissions [510(k)s] for Reprocessed Single-Use Medical Devices; Availability; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of July 8, 2003 (68 FR 40679). The document announced the availability of a guidance entitled ''Guidance for Industry and FDA Staff; Medical Device User Fee and Modernization Act of 2002, Validation Data in Premarket Notification Submissions [510(k)s] for Reprocessed Single-Use Medical Devices; Availability.'' The document published with the incorrect docket number. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Joyce A. Strong, Office of Policy and Planning (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

SUPPLEMENTARY INFORMATION: In FR Doc. 03–17135, appearing on page 40679 in the **Federal Register** of July 8, 2003, the following correction is made:

1. On page 40679, in the first column, in the heading of the document, ''[Docket No. 2003D–0232]'' is corrected to read ''[Docket No. 2003D–0282]''.

Dated: July 17, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–18689 Filed 7–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

New Products and Updated Fee Schedule for National Flood Insurance Program Map and Insurance Products

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This Notice contains several new products and the updated fee schedule for processing requests for the National Flood Insurance Program (NFIP) map and insurance products available through the FEMA Map Service Center (MSC). The changes in the fee schedule include two new products and will allow FEMA to reduce further the expenses to the NFIP by recovering more fully the costs associated with producing, retrieving, and distributing particular NFIP map and insurance products.

DATES: The updated fee schedule is effective for all requests dated, August 1, 2003, or later.

FOR FURTHER INFORMATION CONTACT: Kathy L. Miller, Acting Chief, Information Exchange and Program Evaluation Branch, Mitigation Division, 500 C Street, SW., Washington, DC 20472; by telephone at (202) 646–3316 or by facsimile at (202) 646–4596 (not toll-free calls), by e-mail at *Kathy.Miller@DHS.GOV.*

SUPPLEMENTARY INFORMATION: Throughout this Notice, we use ''we,'' ''our,'' and ''us'' to refer to FEMA.

This Notice contains an updated fee schedule to include two new products available through the MSC.

Effective Date. The updated fee schedule is effective for all written requests, on-line internet requests made through the FEMA Flood Map Store, and all telephone requests received on or after August 1, 2003.

Evaluations Performed. To develop the revised fee schedule for the new products, we first evaluated the actual costs incurred at the MSC for producing, retrieving, and distributing these products. We then analyzed historical sales, cost data, and product unit costs for unusual trends or anomalies; analyzed the effect of program changes, new products, technology investments, and other factors on future sales and product costs. The products covered by this Notice are discussed below.

Periodic Evaluation of Fees. As indicated in the Notice, published at 67 FR 13764, March 26, 2002, a primary component of the fees is the prevailing private sector rates charged to FEMA for labor and materials. Because these rates and the actual production, retrieval, and distribution costs may vary from year to year, we will evaluate the fees periodically and publish a revised fee schedule, when appropriate, as a notice in the **Federal Register**.

Fee Schedule for Requests for Map and Insurance Products

The MSC distributes a variety of NFIP map and insurance products to a broad range of our customers, including Federal, State, and local government officials; real estate professionals; insurance providers; appraisers; builders; land developers; design engineers; surveyors; lenders; homeowners; and other private citizens. Specifically, the MSC distributes the following products:

- Paper (printed) copies of Flood Hazard Boundary Maps (FHBMs);
- Paper (printed) copies of Flood Insurance Rate Maps (FIRMs);
- Paper (printed) copies of Digital Flood Insurance Rate Maps (DFIRMs);
- Paper (printed) copies of Flood Insurance Study (FIS) reports, including the narrative, tables, Flood Profiles, photographs, and other graphics;
- Paper (printed) copies of Flood Boundary and Floodway Maps (FBFMs), when they are included as an exhibit in the FIS;

• Digital Q3 Flood Data files, which FEMA developed by scanning the published FIRM and vectorizing a thematic overlay of flood risks;

• Digital Q3 Flood Data files for Coastal Barrier Resource Areas (CBRA Q3 Flood Data files);

• Community Status Book, which is a report generated by FEMA's Community Information System database that provides pertinent map status information for all identified communities;

• Flood Map Status Information Service (FMSIS), through which FEMA provides status information for effective NFIP maps;

• Letter of Map Change (LOMC) Subscription Service, through which FEMA makes certain types of LOMCs available biweekly on CD–ROM;

• NFIP Insurance Manual (Full Manual), which provides vital NFIP information for insurance agents nationwide;

• NFIP Insurance Manual (Producer's Edition), which is used for reference and training purposes;

• Community Map Action List (CMAL), which is a bimonthly list of communities and their NFIP status codes;

• Maps on the Web—raster images of the FIRMs and Floodways in TIFF format;

• FIS on the Web—raster images of FIS in PDF format;

• Maps on CDs—includes only the raster images of the maps and can be purchased by panel or in community, county, or State kits;

• F–MIT Light on the Web—a free downloadable flood map image view tool, to be used in conjunction with viewing TIFF images, that supports panning, zooming, and creating a ''firmette''. A firmette is a user-defined ''cut-out'' section of the map at 100% map scale designed for printing on a standard office printer;

• F–MIT Light on CD—same as F–MIT Light on the Web, designed for use with the Flood Map CD without a Database; and

• FEMA's *Guidelines and Specifications for Flood Hazard Mapping Partners on CD:* This document combines previous FEMA publications, guidance documents, and memorandums regarding Flood Hazard Mapping. The Guidelines reflect recent changes to processes and products associated with the implementation of the Map Modernization Program, including the Cooperating Technical Partners initiative, new Project Scoping procedures, and DFIRM specifications.

The MSC is now adding two new products, which are denoted by an asterisk in the table. The following is a description of the MSC's new products:

• Community or County Databases—a digital version of the maps that is designated for use with Geographic Information Systems (GIS) software to allow users to access, view, and analyze mapping information using specialized data; and

• FMIT Pro on CD—a view and address look up tool designed for use with the community or county databases.

For more information on the map and insurance products available from the MSC, we invite interested parties to visit our MSC Web site at *http://www.msc.fema.gov/.*

There are no changes in the processing fees or shipping costs for any of the other products that the MSC distributes. Federal, State, and local governments continue to be exempt from paying fees for the map products. The fee schedules for the current and new products are shown in the table below.

Description of product of service	Fee	Shipping charge
Paper Products:		
FHBM, FIRM, DFIRM, or FBFM (floodway) panels.	$2.00 per map panel	$0.37 per panel for the first 10 panels plus $0.03 for each additional panel.
FIS (not including FBFM panels that are included as exhibit).	$5.00 per FIS volume plus $2.00 per floodway map.	$4.00 for the first study volume plus $0.40 for each additional study.
Hurry Charge-Added to regular charge	$33.00	N/A.
Internet Products (products downloadable from the web):		
FHBM, FIRM, DFIRM, or FBFM (floodway) panels.	$1.50 per map panel	None.
FIS	$4.00 per study plus $1.50 per floodway map	None.
F–MIT Light (view tool for map images) on the web.	Free	Not Applicable.
* F–Mit Pro (Viewtool & address look-up)	$30.00	Not Applicable.
FIRMette (A user defined portion of the FIRM printable on a desktop printer).	Free Viewing and downloading	Not Applicable.
CD Products:		
FHBM, FIRM, DFIRM, or FBFM (floodway) panels.	$1.50 per map panel	$3.65 for the first 4 CD–ROMs plus $0.10 for each additional CD–ROM.
* Community or County Database	$10.00 per database	$3.65 for the first 4 CD–ROMs plus $0.10 for each additional CD–ROM.
FIS	$4.00 per FIS volume plus $1.50 per floodway map.	$3.65 for the first 4 CD–ROMs plus $0.10 for each additional CD–ROM.
* F–MIT Light (view tool for map images)	Free	$3.65.
* F–MIT Pro (view tool & address look- up)	$30.00	$3.65.
Other Products:		
Q3 Flood Data Files	$50.00 per CD–ROM	$3.65 for the first 4 CD–ROMs, plus $0.10 for each additional CD–ROM in the same order.
CBRA Q3 Flood Data Files	$50.00 per CD–ROM or $200.00 for all 5 Q3 CDs.	$3.65 for the first 4 CD–ROMs, plus $0.10 for each additional CD–ROM in the same order.
Community Status Book (Individual Orders).	$2.50 per State $20.50 for entire U.S	$1.00 per State $4.26 for entire U.S.
Community Status Book (Annual Subscription).	$50.00 per State $250.00 for entire U.S	Not applicable.

Description of product of service	Fee	Shipping charge
FMSIS (Individual Orders)	$13.00 per State $38.00 for entire U.S	3.65 for the first 4 CD–ROMs, plus $0.10 for each additional CD–ROM in the same order.
FMSIS (Annual Subscription)	$148.00 per State $419.00 for entire U.S	Not applicable.
LOMC Subscription Service (Individual Orders).	$85.00 per issue	$3.65 for the first 4 CD–ROMs, plus $0.10 for each additional CD–ROM in the same order.
LOMC Subscription Service (Annual Subscription).	$2,000.00	Not applicable.
NFIP Insurance Manual (Full Manual)	$25.00 per subscription for complete manual	Not applicable.
NFIP Insurance Manual (Producer's Edition).	$15.00 per subscription	Not applicable.
FEMA's Guidelines and Specifications for Flood Hazard Mapping Partners on CD–ROM.	$2.60	$3.65.

Payment Submission Requirements

Fee payments for non-exempt requests must be made to us in advance of services being rendered. These payments shall be made in the form of a check, a money order, or by a credit card payment. Checks and money orders must be made payable, in U.S. funds, to the *National Flood Insurance Program.*

We will deposit all fees collected to the National Flood Insurance Fund, which is the source of funding for providing these services.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03–18652 Filed 7–22–03; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Agency Information Collection Activities: OMB Emergency Approval and Proposed Renewal; Comment Request

AGENCY: Office of the Secretary (OS), Interior.

ACTION: Notice of an OMB emergency approval and of extension of an information collection (1093–0004).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are inviting comments on a collection of information that the Office of Management and Budget (OMB) approved on an emergency basis on June 24, 2003, and that we will submit to OMB for review and approval as a continuing information collection. The information collection request (ICR) concerns the paperwork requirements to carry out the Take Pride In America Program Act, 16 U.S.C. 4601–4608.

DATES: Submit written comments by September 22, 2003.

ADDRESSES: Mail or hand carry comments to the Department of the Interior, Office of the Secretary, Take Pride In America Program, MS–3459, 1849 C Street, NW., Washington, DC 20240. If you wish to e-mail comments, the address is: *TakePride@ios.doi.gov.* Reference ''Information Collection 1093–0004'' in your e-mail subject line and mark your message for return receipt. Include your name and return address in your message.

FOR FURTHER INFORMATION CONTACT: Marti Allbright, Take Pride In America, 202–208–5848. You may also contact Marti Allbright to obtain a copy, at no cost, of the Take Pride In America Program Act that necessitates this collection of information.

SUPPLEMENTARY INFORMATION:

Title: Take Pride In America National Awards Application/Nomination Process.

OMB Control Number: 1093–0004.

Abstract: Under the Take Pride In America Program Act (Act), 16 U.S.C. Sec. 4601–4608, the Secretary is to: (1) ''conduct a national awards program to honor those individuals and entities which, in the opinion of the Secretary of the Interior * * * have distinguished themselves in activities'' under the purposes of the Act; and also to (2) ''establish and maintain a public awareness campaign in cooperation with public and private organizations and individuals—(A) to instill in the public the importance of the appropriate use of, and appreciation for Federal, State, and local lands, facilities, and natural and cultural resources; (B) to encourage an attitude of stewardship and responsibility toward these lands, facilities, and resources; and (C) to promote participation by individuals, organizations, and communities of a conservation ethic in caring for these lands, facilities, and resources.'' The Act states that ''[t]he Secretary is authorized * * * generally to do any and all lawful acts necessary or appropriate to further the purposes of the TPIA Program.''

The Take Pride In America (TPIA) Program was re-launched on April 16, 2003. The Program will collect information provided voluntarily by individuals or organizations about their events and activities to further the purposes of the Act in order to select finalists and winners of the annual Take Pride In America National Awards. The TPIA National Awards recognize the valuable and significant contributions that individuals and organizations make in support of stewardship of America's lands. Their tireless and creative efforts play a vital role in protecting, conserving, and enhancing America's wealth of natural, historical, and cultural resources. These awards recognize the efforts of individuals and organizations in both the public and private sectors for outstanding stewardship involving Federal, State, local, Tribal, and private lands.

We will use the information collected primarily to select finalists and winners of the TPIA National Awards. Information also will be used to assure the integrity of the Program (so that, for example, an individual or organization does not receive an award twice for the same project), for reporting on the accomplishments of the Program, for the public awareness campaign (such as press releases and website information on winning projects); and to further the purposes of the Act (such as fostering partnerships and coordination of projects).

OMB approved TPIA's application instructions and form on June 24, 2003, on an emergency basis, with an expiration date of December 31, 2003. The approved application instructions and form can be reviewed through the Internet, on *http://www.TakePride.gov.*

We will process any information in accordance with the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations at the

Department (43 CFR part 2). No items of a sensitive nature are collected. Responses are voluntary.

Frequency: Primarily Annually.

Estimated Number and Description of Respondents: Approximately 500 voluntary responses from the public, another 500 from Federal employees.

Estimated Reporting and Recordkeeping ''Hour'' Burden: The currently approved annual reporting burden for this collection is 250 hours for the first year for an estimated 250 respondents. For this ICR, that burden will increase to 500 hours with the estimated increase in respondents. In calculating the burden, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have identified no cost burdens for this collection.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *''. Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Agencies must also estimate the ''non-hour cost'' burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or costs of annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or, (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Policy: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identify, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: July 16, 2003.

Marti Allbright,

Executive Director, Take Pride In America Program.

[FR Doc. 03–18677 Filed 7–22–03; 8:45 am]

BILLING CODE 4310–RK–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill Trustee Council; Notice of Meeting

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior, Office of the Secretary is announcing a public meeting of the *Exxon Valdez* Oil Spill Public Advisory Committee.

DATES: August 14, 2003, at 8:30 a.m.

ADDRESSES: Exxon Valdez Oil Spill Trustee Council Office, 441 West 5th Avenue, Suite 500, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 ''C'' Street, Suite 119, Anchorage, Alaska, 99501, (907) 271–5011.

SUPPLEMENTARY INFORMATION: The Public Advisory Committee was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska*, Civil Action No. A91–081 CV. The meeting agenda will feature discussions about the Fiscal Year 2004 annual work plan.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 03–18752 Filed 7–22–03; 8:45 am]

BILLING CODE 4310–RG–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Meeting of the Trinity Adaptive Management Working Group

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Trinity Adaptive Management Working Group (TAMWG). The TAMWG affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River restoration efforts to the Trinity Management Council. Primary objectives of the meeting will include: review of Trinity River Restoration Program budget, establishment of Committee bylaws, presentations regarding public access, review of a request to the TAMWG to recommend that the Trinity River Restoration Program fund the Bureau of Land Management to purchase a parcel of land at Gold Bar on the Trinity River as a long-term course sediment source for the Restoration Program, a Restoration Program presentation of the Rush Creek Delta project, review of a letter from

Humboldt County to the Secretary of Interior regarding Klamath River Fishery Water Supply, an Executive Director's report, and setting future meeting dates. The meeting is open to the public.

DATES: The Trinity Adaptive Management Working Group will meet from 9:30 a.m. to 4 p.m. on Tuesday, July 29, 2003.

ADDRESSES: The meeting will be held at the Victorian Restaurant, 1709 Main Street, Weaverville, California 96093.

FOR FURTHER INFORMATION CONTACT: Dr. Mary Ellen Mueller of the U.S. Fish and Wildlife Service, California/Nevada Operations Office, 2800 Cottage Way, W–2606, Sacramento, California 95825, (916) 414–6464. Dr. Mary Ellen Mueller is the designee of the committee's Federal Official—Steve Thompson, Manager of the U.S. Fish and Wildlife Service, California/Nevada Operations Office.

SUPPLEMENTARY INFORMATION: For background information and questions regarding the Trinity River Restoration Program, please contact Douglas Schleusner, Executive Director, Trinity River Restoration Program, P.O. Box 1300, 1313 South Main Street, Weaverville, California 96093, (530) 623–1800.

Dated: July 17, 2003.

D. Kenneth McDermond,

Acting Manager, California/Nevada Operations Office, Sacramento, CA.

[FR Doc. 03–18785 Filed 7–22–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–910–03–0777XX]

Notice of Public Meetings of Resource Advisory Councils (RACs) in Nevada: Northeastern Great Basin, Sierra Front—Northwestern Great Basin, and Mojave-Southern Great Basin

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meetings of three BLM Nevada RACs to discuss Sustaining Working Landscapes (Nevada).

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Nevada Northeastern Great Basin RAC, the Sierra Front—Northwestern Great Basin RAC and the Mojave-Southern Great Basin RAC will meet as indicated below. The topic for discussion at each meeting will be to discuss Sustaining Working Landscapes policy and to consider comments from the public, from the RAC working subgroup and from each RAC.

DATES: The meeting for the Northeastern Great Basin RAC includes a public comment meeting on August 18, 2003, 7 p.m. at the Hilton Garden Inn, 3560 East Idaho Street, Elko, Nevada. The purpose of the public meeting is for the RAC to receive public comment about the Sustaining Working Landscapes policy. The business meeting to discuss policy and develop RAC comments on the Sustaining Working Landscapes policy will be held August 19, 2003 at the BLM Elko Field Office beginning at 9 a.m. The public comment period will begin at approximately 1 p.m. and the meeting will adjourn at approximately 5 p.m. Additional topics to be discussed at this meeting were announced in a notice dated July 8, 2003.

The meeting for the Sierra Front—Northwestern Great Basin RAC will be held on September 3, 2003, in the BLM Carson City Field Office at 5665 Morgan Mill Road, Carson City, Nevada, from 9 a.m. to noon. The purpose of the public meeting is to receive public comment and to discuss policy and develop RAC comments on the Sustaining Working Landscapes policy. The public comment period will begin at 10:30 a.m.

The meeting for the Mojave-Southern Great Basin RAC will be held on September 4, 2003, at Fire Station # 2, 209 W. Brougher, Tonopah, Nevada, at 1 p.m. Public comment will be taken 4 p.m. The purpose of the public meeting is to receive public comment on the Sustaining Working Landscapes policy. The Mojave-Southern RAC will meet on September 5 at the BLM Tonopah Field Station, 1553 S. Main Street, from 8 a.m. to noon to discuss policy and develop RAC comments on the Sustaining Working Landscapes policy. Public comment will occur at 10 a.m.

FOR FURTHER INFORMATION CONTACT: Jo Simpson, Chief, Office of Communications, Nevada State Office, 1340 Financial Boulevard, Reno, NV 89520. Telephone: (775) 861–6586. E-mail: *jsimpson@nv.blm.gov*

SUPPLEMENTARY INFORMATION: The three 15-member Councils advise the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Nevada.

All meetings are open to the public. The public may present written comments to the Council. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, or reasonable accommodations, should contact Jo Simpson at (775) 861–6586.

Dated: July 16, 2003.

Robert V. Abbey,

BLM Nevada State Director.

[FR Doc. 03–18680 Filed 7–22–03; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of a Final Environment Impact Statement for the General Management Plan for Carl Sandburg Home National Historic Site, Flat Rock, NC

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of a Final Environmental Impact Statement and General Management Plan (FEIS/GMP) for Carl Sandburg Home National Historic Site, Flat Rock, North Carolina.

DATES: The Draft EIS/GMP was available for public review from October 15, 2002 through December 15, 2002. Responses to public comment are addressed in the FEIS/GMP. The National Park Service will execute a Record of Decision (ROD) no sooner than 30 days following publication by the Environmental Protection Agency of the notice of availability of the Final EIS.

ADDRESSES: Copies of the FEIS/GMP are available from the Superintendent, Carl Sandburg Home National Historic Site, 81 Carl Sandburg Lane, Flat Rock, North Carolina, 28731. Public reading copies of the FEIS/GMP will also be available for review at the following locations:

—Office of Superintendent, Carl Sandburg Home National Historic Site, 81 Carl Sandburg Lane, Flat Rock, North Carolina, 28731. Telephone: 828–693–4178.

—Division of Planning and Compliance, Southeast Regional Office, National Park Service, Attention: Tim Bemisderfer, 100 Alabama Street, 1924 Building, Atlanta, Georgia 30303. Telephone: 404–562–3124, ext. 693.

—An electronic copy of FEIS/GMP is available for download in .pdf format on the Internet at *http://www.nps.gov/carl/gmp news.htm.*

SUPPLEMENTARY INFORMATION: Consistent with the park's purpose, significance, and mission goals, the FEIS/GMP

analyzes three action and one no action alternatives for guiding management of the park over the next 20 years. The environmental consequences anticipated from implementing the various alternatives are addressed in the document. Impact topics include cultural resources, natural resources, interpretation and museum operations, park operations and administration, and quality of life and the socioeconomic environment. The three action alternatives incorporate various management prescriptions to enhance resource protection and visitor experience conditions. The no-action alternative would continue current management practices into the future. The three action alternatives are described as follows:

The Sandburg Center alternative is the preferred alternative. Under this alternative, the park would serve as a focal point for learning about Carl Sandburg. Access to Sandburg related information, literature, and research would be enhanced by expanding the park's Internet database and creating secure and climate controlled exhibit areas for information and objects currently housed in the museum preservation facility. Additional interpretive program areas would be created by rehabilitating the interior of one or more historic structures near the main house or barn. The existing visitor contact station would be renovated to improve its interpretive and visitor services functions and a visitor center created outside the current authorized boundary of the park. The Sandburg Center alternative includes a Congressional legislated boundary expansion of 110 acres for scenic view and boundary protection and up to 5 acres for construction of a visitor center and new parking area.

The Paths of Discovery alternative would supplement the park's traditional high quality interpretive programs and enhance walking opportunities by constructing a ¾ mile long interpretive trail The alternative promotes a community-wide partnership strategy to address common needs such as additional parking and multi-purpose meeting space. The Paths of Discovery alternative includes a Congressionally legislated boundary expansion of 110 acres for scenic view and boundary protection and up to 5 acres for construction of a visitor center and new parking area.

In the Connemara Lifestyle alternative, visitors would experience the site much as Carl Sandburg knew it. Park management would focus on maintaining the site's historic landscape, structures, and furnishings and providing interpretive programs on site and at local schools. Primary access to the objects and information contained in the museum collection would occur at the main house, an expanded visitor contact station, and through the Internet or other mass media formats. Opportunities for access to objects and information would be greater than existing conditions but less than the Sandburg Center or Paths of Discovery alternatives. The Connemara Lifestyle alternative includes a Congressionally legislated boundary expansion of 25 acres for scenic view and boundary protection and up to 2 acres for construction of a new parking area.

In all action alternatives, the park would continue to provided guided tours of the Sandburg residence and maintain the historic landscape at a high level of integrity. Opportunities for walking would be available and closely managed to maintain the historic character of the site. The existing amphitheater would be relocated to a less intrusive location and the trailer restroom would be replaced by an appropriately designed modern facility at the same location. Any additional property interest would be acquired under a willing seller/willing buyer arrangement without the exercise of eminent domain.

FOR FURTHER INFORMATION CONTACT: Superintendent, Carl Sandburg Home National Historic Site, 81 Carl Sandburg Lane, Flat Rock, North Carolina, 28731, Telephone: 828–693–4178.

The responsible official for this Environmental Impact Statement is William W. Schenk, Regional Director, Southeast Region, National Park Service, 100 Alabama Street, SW., 1924 Building, Atlanta, Georgia 30303.

Dated: June 19, 2003.

W. Thomas Brown,

Acting Regional Director, Southeast Region.

[FR Doc. 03–18694 Filed 7–22–03; 8:45 am]

BILLING CODE 4310–5E–M

DEPARTMENT OF THE INTERIOR

National Park Service

Green Spring Unit, Colonial National Historical Park, Virginia

AGENCY: National Park Service, Department of the Interior.

ACTION: Availability of Final General Management Plan Amendment and Abbreviated Final Environmental Impact Statement for Green Spring Unit, Colonial National Historical Park.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of a Final General Management Plan Amendment and Abbreviated Final Environmental Impact Statement (Final GMPA/AEIS) for Green Spring Unit, Colonial National Historical Park, Virginia. The Final GMPA/AEIS proposes a long-term approach to managing Green Spring. Consistent with the park's mission, NPS policy, and other laws and regulations, three alternatives are presented to guide the management of the park over the next 15 to 20 years. The alternatives incorporate various zoning and management prescriptions to ensure resource preservation and public enjoyment of the park. The environmental consequences that are anticipated from implementing the various alternatives are evaluated in the report. Impact topics include cultural and natural resources, visitor experience, park operations, the socioeconomic environment, cumulative impacts and sustainability. Alternative C is the preferred alternative. After a 30-day no action period, a Record of Decision will be prepared. The Process is anticipated to be completed in August 2003.

DATES: The Draft GMPA/EIS was on public review from May 2 through July 11, 2001. Responses to public comment are addressed in the Final GMPA/AEIS. A 30-day no-action period will follow the Environmental Protection Agency's Notice of Availability of the Final GMPA/AEIS.

To Request Copies of the Document Contact: Superintendent, Colonial National Historical Park, Post Office Box 210, Yorktown, Virginia 23690, (757) 898–3400. Public reading copies of the Final GMPA/AEIS will be available for review at the following locations:

- Colonial National Historical Park, Park Headquarters, Yorktown Visitor Center, Yorktown, Virginia, Telephone: (757) 898–3400.
- Williamsburg Regional Library, 515 Scotland Street, Williamsburg, Virginia.
- James City County Library, 7770 Croaker Road, Williamsburg, Virginia.
- John D. Rockefeller, Jr. Library, 313 1st Street Williamsburg, Virginia.
- Office of Public Affairs, National Park Service, Department of Interior, 18th and C Streets NW, Washington, DC 20240,Telephone: (202) 208–6843.

FOR FURTHER INFORMATION CONTACT: Superintendent, Colonial National Historical Park, at the above address and telephone number.

Dated: July 1, 2003.

Alec Gould,

Superintendent, Colonial National Historical Park, National Park Service.

[FR Doc. 03–18701 Filed 7–22–03; 8:45 am]

BILLING CODE 4312–JM–P

DEPARTMENT OF THE INTERIOR

National Park Service

Record of Decision on the Final Environmental Impact Statement, Personal Watercraft Rule-Making, Glen Canyon National Recreation Area, Arizona and Utah

AGENCY: National Park Service (NPS), Department of the Interior.

ACTION: Notice of availability of the Record of Decision on the Final Environmental Impact Statement (FEIS), Personal Watercraft (PWC) Rule-Making, Glen Canyon National Recreation Area.

SUMMARY: On June 27, 2003, the Director, Intermountain Region, National Park Service, approved the Record of Decision on the Final Environmental Impact Statement, Personal Watercraft Rule-making for Glen Canyon National Recreation Area. As soon as practical the NPS will begin to implement the modified preferred alternative (Alternative B) contained in the FEIS issued May 23, 2003. Alternative B will allow PWC use in the recreation area under a special regulation with additional management restrictions. The following course of action will occur under the modified preferred alternative: PWC use will be prohibited in portions of the Colorado, Escalante, Dirty Devil, and San Juan Rivers to increase protection of environmental values and reduce visitor conflict; speed restrictions will be imposed on PWC on the Escalante River between Cow Canyon and the confluence of Coyote Creek to further reduce visitor conflict and improve visitor experience; after December 31, 2012, no one may operate a personal watercraft that does not meet the 2006 emission standards set by the EPA for the manufacturing of gasoline marine engines; educational programs and materials will be enhanced to provide more information to visitors on personal watercraft use and safety as well as recreation area resources; development of a monitoring program to evaluate the effects of PWC use on recreation area resources; and a comprehensive lake management plan will be developed that will consider the management of all lake uses. This alternative was identified as the environmentally preferred alternative in the FEIS. It was also determined to best accomplish the statutory mission of the NPS to provide long-term protection to the NPS units' resource and significance, while allowing for a spectrum of recreational uses. It was determined that implementation of the modified preferred alternative will not constitute an impairment of park resources and values. This course of action and two other alternatives were analyzed in the Draft and Final Environmental Impact Statements. The full range of foreseeable environmental consequences was assessed, and appropriate mitigating measures identified.

The full Record of Decision includes a statement of the decision made; synopsis of the alternatives considered, a description of the environmentally preferable alternative; the decision rationale used in selecting the alternative; a finding of no impairment of park resources and values; a description of mitigation measures and monitoring plans that will be implemented for the selected alternative; a statement that addresses how all practical means to avoid or minimize environmental harm from the selected alternative have been adopted; and a description of public involvement in the decision-making process.

Basis for the Decision

In reaching its decision to select the modified preferred alternative, the NPS considered the purposes for which Glen Canyon National Recreation Area was established, and other laws and policies that apply to federal lands, including the Organic Act, National Environmental Policy Act, and the NPS Management Policies 2001. The NPS also carefully considered public and agency comments received during the planning process.

FOR FURTHER INFORMATION CONTACT: Brian Wright, Glen Canyon National Recreation Area, (928) 608–6339.

Dated: June 27, 2003.

Michael D. Snyder,

Deputy Director, Intermountain Region, National Park Service.

[FR Doc. 03–18702 Filed 7–22–03; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of a Finding of No Significant Impact for the 2003 Telecommunications Facilities Environmental Assessment, Rock Creek Park, Washington, DC

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), Telecommunications Act of 1996, and the July 2002, Order of the U.S. District Court for the District of Columbia in *Audubon Naturalist Society of the Central Atlantic States, Inc. et al.* v. *National Park Service* (NPS) and *Bell Atlantic Mobile, Inc.*, the National Park Service prepared and made available for a 36-day public review an Environmental Assessment (EA) evaluating the potential impacts to the human and natural environment from two existing cellular communications towers located within Rock Creek Park, Washington, DC.

After the end of the 36-day public review period, the NPS selected for implementation, the preferred alternative as described in the EA, and determined that implementation of the preferred alternative will not have a significant impact on the quality of the human environment and that an environmental impact statement is not required. In making that selection and determination, the NPS considered the information and analysis contained in the EA and the comments received during the public review period. The NPS has prepared a Finding of No Significant Impact (FONSI) for the project. The NPS' decision was filed with the court pursuant to a June 20, 2003 court deadline.

The selected alternative allows the continued operation of the two wireless telecommunications facilities as presently located, with the NPS developing a park-wide telecommunications plan and a monitoring program for migratory birds.

SUPPLEMENTARY INFORMATION: Copies of the FONSI are available at *http://www.nps.gov/rocr* and the following public libraries: Martin Luther King Memorial Library, 901 G Street NW., Washington, DC 20001; Chevy Chase Library, 5625 Connecticut Avenue NW., Washington, DC 20015; Cleveland Park Library, 3310 Connecticut Avenue NW., Washington, DC 20008; Georgetown Library, 3260 R Street NW., Washington, DC 20007; Juanita Thorton Shepard Park Branch Library, 7420 Georgia Avenue NW., Washington, DC 20012; Langston Community Library, 2600 Bennet Road NE., Washington, DC 20019; Mt.

Pleasant Library, 1600 Lamont Street NW., Washington, DC 20010; Northeast Branch Library, 330 7th Street NE., Washington, DC 20002; Petworth Branch Library, 4200 Kansas Avenue NW., Washington, DC 20011; Tenly-Friendship Branch Library, 4450 Wisconsin Avenue NW., Washington, DC 20016; Watha T. Daniel Library, 1701 8th Street NW., Washington, DC 20001; Woodbridge Library, 1801 Hamlin Street NE., Washington, DC 20018; Library of Congress, 101 Independence Avenue SE., Washington, DC 20540; Palisades, 4901 V Street NW., Washington, DC 20007; Sursum Corda Community Library, 135 New York Avenue NW., Washington, DC 20001. You may also request a hard copy at (202) 895–6000.

FOR FURTHER INFORMATION CONTACT: Adrienne Coleman, Superintendent, Rock Creek Park, at 3545 Williamsburg Lane NW., Washington, DC 20008–1207, or by telephone at (202) 895–6004.

Dated: June 20, 2003.

Terry R. Carlstrom,

Regional Director, National Capital Region.

[FR Doc. 03–18698 Filed 7–22–03; 8:45 am]

BILLING CODE 4310–71–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of a Final Environmental Impact Statement for Schuylkill River Valley National Heritage, Management Plan Update

AGENCY: National Park Service, Department of Interior.

ACTION: Availability of the final environmental impact statement for the Schuylkill River Valley National Heritage Area Management Plan Update.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of a Final Environmental Impact Statement (FEIS) for Schuylkill River Valley National Heritage Area Management Plan Update. The Schuylkill River Valley National Heritage Area Act of 2000 required the Schuylkill River Greenway Association, with guidance from the National Park Service, to prepare an update of their 1995 Schuylkill Heritage Corridor Management Action Plan. The Management Plan Update includes: (A) Actions to be undertaken by units of government and private organizations to protect the resources of the Heritage Area; (B) an inventory of the resources contained in the Heritage Area, including a list of any property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, developed, or maintained because of its natural, cultural, historical, recreational, or scenic significance; (C) a recommendation of policies for resource management that considers and details application of appropriate land and water management techniques, including the development of intergovernmental cooperative agreements to protect the historical, cultural, recreational, and natural resources of the Heritage Area in a manner consistent with supporting appropriate and compatible economic viability; (D) a program for implementation of the management plan by the management entity, (E) an analysis of ways in which local, State, and Federal programs are to be coordinated to promote the purposes of this title, and (F) an interpretation plan for the Heritage Area.

The study area, designated as the Schuylkill River Valley National Heritage, includes parts of the counties of: Schuylkill, Berks, Chester, Montgomery and Philadelphia in southeastern Pennsylvania as associated with the Schuylkill River watershed.

The National Park Service (NPS) maintains two park sites within the region: Valley Forge National Historical Park and the Hopewell Furnace National Historic site. Otherwise the majority of land is non-federal and the NPS assumes a management role only within their park units. Instead, conservation, interpretation and other activities are managed by partnerships among federal, state, and local governments and private nonprofit organizations. The Schuylkill River Greenway Association manages the national heritage area. The National Park Service has been authorized by Congress to provide technical and financial assistance for a limited period (up to 10 years from the time of the designation in 2000).

DATES: The FEIS will remain on Public Review for thirty days from the publication of the notice in the **Federal Register** by the Environmental Protection Agency.

FOR FURTHER INFORMATION CONTACT: Peter Samuel, Project Leader, Northeast Region, National Park Service, US Custom House, 200 Chestnut Street, Philadelphia, PA 19106. *peter_samuel@nps.gov*, 215–597–1848.

If you correspond using the internet, please include your name and return address in your e-mail message. Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: June 19, 2003.

Marie Rust,

Regional Director, Northeast Region.

[FR Doc. 03–18696 Filed 7–22–03; 8:45 am]

BILLING CODE 4310–25–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Prepare an Environmental Impact Statement for the White-Tailed Deer Management Plan, Indiana Dunes National Lakeshore, IN

AGENCY: National Park Service, Department of the Interior.

SUMMARY: Under the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), the National Park Service (NPS) is preparing an environmental impact statement for the White-tailed Deer Management Plan for Indiana Dunes National Lakeshore (Lakeshore). A deer management plan is needed to ensure the local deer population does not become a dominant force within the Lakeshore that negatively influences ecosystem components such as sensitive vegetation or other wildlife.

DATES: The NPS will accept comments from the public for 60 days from the date this notice is published in the **Federal Register**. In addition, the NPS intends to conduct public scoping open houses at the Lakeshore. Please check local newspapers, the Lakeshore's Web site *http://www.nps.gov/indu* or contact the name listed below to find out when and where these open houses will be held.

ADDRESSES: Information will be available for public review and comment at the Lakeshore headquarters located at 1100 North Mineral Springs Road, Porter, Indiana, and the Dorothy

Buell Memorial Visitor Center, U.S. 12 and Kemil Road, Beverly Shores, Indiana.

FOR FURTHER INFORMATION CONTACT: The Resource Management Program Assistant, Indiana Dunes National Lakeshore, 219–926–7561, extension 332.

SUPPLEMENTARY INFORMATION: Within eastern national parks such as Indiana Dunes National Lakeshore, landscapes have been managed to allow for preservation and rehabilitation of scenic, scientific, and historic lands. The result is a mixture of forest, shrub, and grassland, which constitute excellent habitat for white-tailed deer. Since deer management has not been part of management policies in the majority of parks, the population of deer has greatly increased. Impacts to significant park resources by the deer population could compromise the park's purpose as mandated by Congress in 1966, which was to preserve the exceptional biological diversity found within its boundaries. The objectives of this planning effort include determining a science-based and supportable vegetation and wildlife impact level and corresponding density of deep populations to assist in potential future management actions. The plan would develop and implement an adaptive management approach for maintaining a healthy deer population. Finally, the plan would prevent impacts from deer browsing to sensitive, threatened or endangered plant and animal species. Preliminary alternatives to meet these objectives include fencing, repellents, reproductive control, direct reduction, and a combination of these management strategies. A no action alternative will also be analyzed.

A scoping brochure has been prepared that details the issues identified to date, and possible alternatives to be considered. Copies of that information may be obtained from the Resource Management Program Assistant, Indiana Dunes National Lakeshore, 1100 North Mineral Springs Road, Porter, Indiana 46304, telephone 219–926–7561, extension 332, or the Lakeshore's Web site *(http://www.nps.gov/indu).*

If you wish to comment on the scoping brochure or on any other issues associated with the plan, you may submit your comments by any one of several methods. You may mail comments to Resource Management, Indiana Dunes National Lakeshore, at the address given above. You may also e-mail comments to *indu_forum@nps.gov.* Please submit Internet comments as a text file avoiding the use of special characters and any form of encryption. Please put in the subject line ''Deer Management'' and include your name and return address in your message. If you do not receive a confirmation from the system that we have received your message, contact us directly at Resource Management 219–926–7561, extension 332. Finally, you may hand-deliver comments to the Dorothy Buell Memorial Visitor Center, U.S. 12 and Kemil Road, Beverly Shores, Indiana.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: June 24, 2003.

Ernest Quintana,

Acting Regional Director, Midwest Region.

[FR Doc. 03–18697 Filed 7–22–03; 8:45 am]

BILLING CODE 4310–25–P

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan, Environmental Impact Statement, Padre Island National Seashore, Texas

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Intent to prepare an Environmental Impact Statement for the General Management Plan, Padre Island National Seashore.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332 (C), the National Park Service is preparing an Environmental Impact Statement for the General Management Plan for Padre Island National Seashore. The effort will result in a comprehensive General Management Plan that encompasses preservation of natural and cultural resources, visitor use and interpretation, roads, and facilities. The plan will guide the protection and preservation of the natural and cultural environments considering a variety of interpretive and recreational visitor experiences that enhance the enjoyment and understanding of the park resources. In cooperation with local and national interests, attention will also be given to resources outside the boundaries that affect the integrity of park resources. Alternatives to be considered include a no-action and alternatives addressing the following:

To clearly describe specific resource conditions and visitor experiences in various management units throughout the park and,

To identify the kinds of management, use, and development that will be appropriate to achieving and maintaining those conditions.

Major issues include sea turtles, southern access from a ferry proposal from Port Mansfield, trash along the shoreline, dredge material disposal, illegal activities routes to smugglers, terrorists, and illegal immigrants, illegal off-road vehicles, poaching, metal detecting, and illegal commercial fishing), beach/shoreline management, boundaries, and partnership opportunities with other agencies (state and federal). A scoping brochure has been prepared outlining the issues identified to date and will be available in July 2003. Electronic copies of the newsletter will be available on the NPS Planning Web site for the plan in the What's New Section: *http://planning.nps.gov/parkweb/default.cfm?RecordID=143* or from, Jock Whitworth, Superintendent, Padre Island National Seashore, 20301 Park Road 22, Corpus Christi, Texas 78418. Public workshop information will be announced on the Web site in late August. Comments on this notice must be received by September 15, 2003.

DATES: The Park Service will accept comments from the public through September 22, 2003.

ADDRESSES: Information will be available for public review and comment in the office of the Superintendent, Padre Island National Seashore, 20301 Park Road 22, Corpus Christi, Texas 78418, (361) 949–8173.

FOR FURTHER INFORMATION CONTACT: Jock Whitworth, Superintendent, Padre Island National Seashore, (361) 949–8173.

SUPPLEMENTARY INFORMATION: If you wish to comment on the scoping brochure or on any other issues associated with the plan, you may submit your comments by any one of several methods. You may mail comments to Padre Island National Seashore, P.O. 181300, Corpus Christi, Texas 78480–1300. You may also comment via the Internet on the Your Input Section of the Web site at:

http://planning.nps.gov/parkweb/default.cfm?RecordID=143

Please submit all comments at the address above by cutting and pasting the comments into the comment form provided on the Your Input Section of our website. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (361) 949–8173. Finally, you may hand-deliver comments to Padre Island National Seashore, 20301 Park Road 22, Corpus Christi, Texas 78418. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: May 16, 2003.

Michael D. Snyder,

Deputy Regional Director, Intermountain Region, National Park Service.

[FR Doc. 03–18700 Filed 7–22–03; 8:45 am]

BILLING CODE 4312–CD–P

DEPARTMENT OF THE INTERIOR

National Park Service

Acadia National Park; Bar Harbor, ME; Acadia National Park Advisory Commission; Notice of meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1, Sec. 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday, September 8, 2003.

The Commission was established pursuant to Public Law 99–420, Sec. 103. The purpose of the commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the park, including but not limited to the acquisition of lands and interests in lands (including conservation easements of islands) and termination of rights of use and occupancy.

The meeting will convene at park Headquarters, McFarland Hill, Bar Harbor, Maine, at 1 p.m. to consider the following agenda:

1. Review and approval of minutes from the meeting held June 2, 2003
2. Committee reports:
   —Land Conservation
   —Park Use
   —Science
3. Old business
4. Superintendent's report
5. Public comments
6. Proposed agenda for next Commission meeting, February 2, 2004

The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609; tel: (207) 288–3338.

Dated: June 25, 2003.

Len Bobinchock,

Acting Superintendent, Acadia National Park.

[FR Doc. 03–18706 Filed 7–22–03; 8:45 am]

BILLING CODE 4510–2N–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Park System Advisory Board; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix, that the National Park System Advisory Board will conduct a public meeting by teleconference on August 12, 2003, from 4 p.m. to 5 p.m. eastern standard time, inclusive. Members of the public may attend the meeting in person in Washington, DC, at the Jurys Washington Hotel, Burlington Ballroom A, 1500 New Hampshire Avenue, NW., Washington, DC 20036. During this teleconference, the National Park System Advisory Board will receive and discuss the report of its National Parks Science Committee concerning an evaluation of the National Park Service Natural Resource Challenge Program. The Board will make recommendations to the Director of the National Park Service concerning the future direction of science in the National Park Service. Anyone who wishes a copy of the committee report may contact Shirley Sears Smith, Office of Policy and Regulations, National Park Service, at 202–208–7456.

Opportunities for oral comment will be limited to no more than 3 minutes per speaker and no more than 15 minutes total. The Board's chairman will determine how time for oral comments will be allocated. Anyone who wishes further information concerning the meeting, or who wishes to submit a written statement, may contact Mr. Loran Fraser (202–208–7456), Office of Policy and Regulations, National Park Service, 1849 C Street, NW., Washington, DC 20240.

Draft minutes of the meeting will be available for public inspection about 12 weeks after the meeting, in room 7250, Main Interior Building, 1849 C Street, NW., Washington, DC.

Dated: July 15, 2003.

Loran Fraser,

Chief, Office of Policy and Regulations, National Park Service.

[FR Doc. 03–18707 Filed 7–22–03; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 5, 2003. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by August 7, 2003.

Patrick W. Andrus,

Acting Keeper of the National Register of Historic Places.

COLORADO

Chaffee County

Morley Bridge, (Highway Bridges in Colorado MPS), Chaffee Cty Rd. 297 at milepost 2.40, Romley, 03000744

IOWA

Clinton County

Sharon Methodist Epsicopal Church, 1223 125th St., Lost Nation, 03000745

MASSACHUSETTS

Essex County

Breakheart Reservation Parkways—Metropolitan Park System of Greater Boston (Metropolitan Park System of Greater Boston MPS), Forest St., Pine Tops, Elm and Hemlock Rds., Saugus, 03000748

Nahant Beach Boulevard—Metropolitan Park System of Greater Boston (Metropolitan Park System of Greater Boston MPS), Nahant Beach Blvd., Lynn, 03000747

Norfolk County

Blue Hills Reservation Parkways—Metropolitan Park System of Greater Boston (Metropolitan Park System of Greater Boston MPS), Parts of Blue Hill Rd., Chickatawbut Rd., Hillside St., Uniquity Rd., Wampatuck Rd., and Green St., Braintree, 03000746

NEVADA

Lander County

Austin Cemetery, N and S sides of U.S. 50 near jct. with NV 305, Austin, 03000753

Austin City Hall, 90 South St., Austin, 03000754

Austin Masonic and Odd Fellows Hall, 105 Main St., Austin, 03000756

Austin Methodist Church, 135 Court St., Austin, 03000751

Gridley Store, 247 Water St., Austin, 03000752

Nevada Central Turntable, Off Austin Roping Arena Rd., S side of U.S. 50, Austin, 03000759

St. Augustine's Catholic Church, 113 Virginia St., Austin, 03000758

St. George's Episcopal Church, 156 Main St., Austin, 03000755

Stokes Castle, Castle, U.S. 50 W of Austin, Austin, 03000757

Washoe County

Upson, Pearl, House, 937 Jones St., Reno, 03000749

OHIO

Franklin County

Rush Creek Village Historic District, Residential subdivision centered along East South St., E of Morning St., Worthington, 03000760

SOUTH DAKOTA

Beadle County

Anderson Barn, 19411 394th St., Hitchcock, 03000763

Brookings County

Cobel, Ivan, House, 727 Main Ave., Brookings, 03000762

Clay County

Wakonda State Bank, 118 Ohio St., Wakonda, 03000765

Fall River County

St. Martin's Catholic Church and Grotto, (Federal Relief Construction in South Dakota MPS), Lot Six Block 5, Oelrichs, 03000764

Hutchinson County

Kost Farm Barn, 42247 280th St., Olivet, 03000766

Minnehaha County

Slip Up Creek Homestead, 25359 478th Ave., Garretson, 03000761

Pennington County

Madison Ranch, 8800 Nemo Rd., Rapid City, 03000767

TEXAS

Austin County

Lander County Courthouse, 122 Main St., Austin, 03000750

Gonzales County

Houston, William Buckner and Sue, House, 621 E. St. George St., Gonzales, 03000769

Guadalupe County

Seguin Commercial Historic District (Boundary Increase), Roughly bounded by Myrtle St., Camp St., Washington St. and Crockett St., Seguin, 03000768

Nolan County

Newman, I.M. and Margaret, House, 309 Ragland St., Sweetwater, 03000771

Winkler County

Rig Theater, 213–215 E. Hendricks Blvd., Wink, 03000770

UTAH

Sanpete County

Nielson, John R., Cabin, Manti Canyon, Manti, 03000772

[FR Doc. 03–18678 Filed 7–22–03; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 12, 2003. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by August 7, 2003.

Carol D. Shull,

Keeper of the National Register of Historic Places.

ARKANSAS

Union County

El Dorado Commercial Historic District, Courthouse Square, portions of Main, Jefferson, Washington, Jackson, Cedar and Locust Sts., El Dorado, 03000773

CALIFORNIA

Los Angeles County

Andalusia, 1471–1475 Havenhurst Dr., Los Angeles, 03000775

Neutra, Richard and Dion, VDL Research House II, 2300 Silver Lake Blvd., Los Angeles, 03000774

COLORADO

Denver County

McPhee and McGinnity Paint Factory, 2519 Walnut St., Denver, 03000776

San Miguel County

Rio Grande Southern Railroad Trout Lake Water Tank, along North Trout Lake Rd., Ophir, 03000777

DISTRICT OF COLUMBIA

District of Columbia

Arden, Elizabeth, Building, 1147 Connecticut Ave., Washington, 03000778

Springland Springhouse—Springland (Boundary Increase), 3517 Springland Ln, NW., Washington, 03000779

ILLINOIS

Cook County

Armour Square (Chicago Park District MPS), Bounded by W 33rd St., W 34th Place, S. Wells Ave. and S. Shields Ave., Chicago, 03000789

Calumet Park (Chicago Park District MPS), 9801 South Avenue G, Chicago, 03000788

Davis Square (Chicago Park District MPS), Roughlu bounded by W. 44th St., W, 45th St., S. Marshfield Ave. and S. Hemitage Ave., Chicago, 03000787

Palmolive Building, 919 N. Michigan Ave., Chicago, 03000784

Reid House, 2013 S. Prairie Ave., Chicago, 03000783

Washington Square Historic District (Land Subdivisions with Set-Aside Parks, Chicago, IL MPS), Washington Square, N. Dearborn St., from W. Walton St. to W. Chicago Ave., Chicago, 03000786

Lake County

Holy Family Church, 1840 Lincoln St., North Chicago, 03000780

Snite, John Taylor, House (Highland Park MRA), 225 N. Deere Park Ave. E, Highland Park, 03000790

Rock Island County

Sala Apartment Building, 320–330 Nineteenth St., Rock Island, 03000782

MASSACHUSETTS

Middlesex County

Bedford Depot, 80 Loomis St. and 120 South Rd., Bedford, 03000791

Wilson Mill—Old Burlington Road District, Old Burlington Rd. and Wilson Rd., Bedford, 03000792

Suffolk County

Publicity Building, 40–44 Bromfield St., Boston, 03000781

MISSOURI

Cole County

East End Drugs, 630 E. High St., Jefferson City, 03000794

Dent County

Nova Scotia Ironworks Historic District, Mark Twain National Forest, Salem, 03000793

NEBRASKA

Adams County

Central Hastings Historic District, Roughly 7th to 12th; Colorado Ave to Bellevue Ave., Hastings, 03000795

Lancaster County

Nebraska State Historical Society Building, 1500 R St., Lincoln, 03000797

Saunders County

Kirchman, F.J., House, 957 Beech St., Wahoo, 03000796

NEW MEXICO

De Baca County

Fort Sumner Community House (New Mexico Federation of Women's Club Buildings in New Mexico MPS), Jct. of U.S. 84 and Baker Ave., Fort Sumner, 03000798

NORTH CAROLINA

Buncombe County

Biltmore Hardware Building (Biltmore Village MRA), 28–32 Hendersonville Rd., Asheville, 03000800

Chatham County

Brewer, Sheriff Stephen Wiley, Farmstead (Pittsboro MRA), 365 Thompson St., Pittsboro, 03000801

Craven County

Cedar Street Recreation Center, 822 Cedar St., New Bern, 03000802

Cumberland County

Brownlea, 405 Southampton Court, Fayetteville, 03000803

Durham County

Venable Tobacco Company Prizery and Receiving Room, (Durham MRA), 302–04 East Pettigrew, Durham, 03000804

Yancey County

Yancey Collegiate Institute Historic District, School Dr. and Green Mountain Dr., Burnsville, 03000799

OHIO

Allen County

Lima Pennsylvania Railroad Passenger Depot, 424 N. Central Ave., Lima, 03000805

Hamilton County

Freund—Heintz House, 3332 Whitfield Ave., Cincinnati, 03000806

TEXAS

McLennan County

Texas Textile Mills—L.L. Sams Company Historic District, 2100 River St., Waco, 03000807

Nacogdoches County

Durst—Taylor House, 304 North St., Nacogdoches, 03000808

WASHINGTON

Garfield County

Downtown Pomeroy Historic District, Roughly bounded by Main St., Tenth and Ninth Sts., Columbia St., and Sixth St., Pomeroy, 03000811

Spokane County

Barnett, Alonzo and Louise, House, 902 E. Augusta Ave., Spokane, 03000809

Whitman County

U.S. Post Office—Pullman, (Historic U.S. Post Offices in Washington MPS), SE 245 Paradise St., Pullman, 03000810

[FR Doc. 03–18679 Filed 7–22–03; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA. The human remains and associated funerary objects were removed from Clark County, NV.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

An assessment of the human remains, and catalog records and associated documents relevant to the human remains, was made by Phoebe A. Hearst Museum of Anthropology professional staff in consultation with representatives of the Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Paiute Indian Tribe of Utah; San Juan Southern Paiute Tribe of Arizona; and Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho.

In 1928, human remains representing at least two individuals were removed from a cave located ''eight miles from Glendale in the direction of Moapa'' in Clark County, NV, by L.F. Herrick, who donated the human remains to the Phoebe A. Hearst Museum of Anthropology in the same year. No known individuals were identified. The one associated funerary object is a woven magenta wool cloth fragment.

The circumstances of burial of the human remains in a cave identify the human remains as Native American. The presence of an associated funerary object of Euroamerican origin, the wool cloth fragment, dates the burials to post-European contact. Historical records and consultation evidence indicate that this area was inhabited by Paiute culture groups at the time of European contact. The current descendants of these groups are the Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Paiute Indian Tribe of Utah; San Juan Southern Paiute Tribe of Arizona; and Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho.

Officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical remains of at least two individuals of Native American ancestry. Officials of the Phoebe A. Hearst Museum of Anthropology also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the one object described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native

American human remains and the associated funerary object and the Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Paiute Indian Tribe of Utah; San Juan Southern Paiute Tribe of Arizona; and Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and the associated funerary object should contact C. Richard Hitchcock, NAGPRA Coordinator, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA 94720, telephone (510) 642-6096, before August 22, 2003. Repatriation of the human remains and the associated funerary object to the Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Paiute Indian Tribe of Utah; San Juan Southern Paiute Tribe of Arizona; and Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho may proceed after that date if no additional claimants come forward.

The Phoebe A. Hearst Museum of Anthropology is responsible for notifying the Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Paiute Indian Tribe of Utah; San Juan Southern Paiute Tribe of Arizona; and Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho that this notice has been published.

Dated: June 12, 2003.

John Robbins,

Assistant Director, Cultural Resources.

[FR Doc. 03–18703 Filed 7–22–03; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Springfield Science Museum, Springfield, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Springfield Science Museum, Springfield, MA. The human remains were removed from an unknown site in North McGregor, Clayton County, IA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by Springfield Science Museum professional staff in consultation with representatives of the Flandreau Santee Sioux Tribe of South Dakota; Ho-Chunk Nation of Wisconsin; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Lower Sioux Indian Community in the State of Minnesota; Prairie Island Indian Community in the State of Minnesota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Santee Sioux Tribe of the Santee Reservation of Nebraska; Spirit Lake Tribe, North Dakota; Upper Sioux Community, Minnesota; Winnebago Tribe of Nebraska; and Yankton Sioux Tribe of South Dakota.

In 1860, a human cranium representing one individual was removed from an unknown site in North McGregor, IA, near the Mississippi River by Mr. H. Davis. In 1862, Mr. Davis donated the human remains to the Springfield Science Museum. No known individual was identified. No associated funerary objects are present. The physical anthropological characteristics indicate that the individual is Native American.

Based on the geographical location of North McGregor, IA, within the area recognized by the Indian Claims Commission as aboriginal land of the Sac & Fox Nation, the human remains are likely affiliated with the Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; and Sac & Fox Tribe of the Mississippi in Iowa. The land recognized by the Indian Claims Commission is included in the terms of the Treaty of September 21, 1832 (7 Stat., 374) between the Sauk and Fox and the United States, a cession required of the Sauk and Fox as indemnity for the expenses of the Black Hawk War.

Officials of the Springfield Science Museum have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Springfield Science Museum also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can reasonably be traced between the Native American human remains and the Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; and Sac & Fox Tribe of the Mississippi in Iowa.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact David Stier, Director, Springfield Science Museum, 220 State Street, Springfield, MA 01103, telephone (413) 263-6800, extension 321, before August 22, 2003. Repatriation of the human remains to the Sac & Fox Tribe of the Mississippi in Iowa, acting on behalf of the Sac & Fox Nation of Missouri in Kansas and Nebraska and Sac & Fox Nation, Oklahoma may proceed after that date if no additional claimants come forward.

The Springfield Science Museum is responsible for notifying the Flandreau Santee Sioux Tribe of South Dakota; Ho-Chunk Nation of Wisconsin; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Lower Sioux Indian Community in the State of Minnesota; Prairie Island Indian Community in the State of Minnesota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Santee Sioux Tribe of the Santee Reservation of Nebraska; Spirit Lake Tribe, North Dakota; Upper Sioux Community, Minnesota; Winnebago Tribe of Nebraska; and Yankton Sioux Tribe of South Dakota that this notice has been published.

Dated: May 28, 2003.

John Robbins,

Assistant Director, Cultural Resources.

[FR Doc. 03–18704 Filed 7–22–03; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Draft Director's Order Concerning National Park Service Policies and Procedures Governing Civic Engagement and Public Involvement

AGENCY: National Park Service, Interior.

ACTION: Availability of draft Director's Order.

SUMMARY: The NPS is inviting comment for a 30-day period on draft Director's Order #75A: Civic Engagement and Public Involvement. The document emphasizes the National Park Service (NPS) policy of welcoming the public to use the parks in appropriate, sustainable ways, and engaging the public in the work of the bureau with effective public involvement techniques. When adopted, the policies and procedures will apply to all park units and programs administered by the NPS.

DATES: Written comments will be accepted until August 22, 2003.

ADDRESSES: Submit comments to Marcia Keener, United States Department of Interior, National Park Service Office of Policy (Org. Code 0004), Room 7252, 1849 C Street, NW., Washington, DC 20240. Or, telefax to 202–219–8835; or send via electronic mail to *waso_opr@nps.gov.*

SUPPLEMENTARY INFORMATION: The NPS has long provided opportunities for public involvement through its planning, historic preservation, and environmental compliance procedures. Additional requirements and expectations for outreach and consultation are presently included in the 2001 edition of ''Management Policies,'' and in a number of active Director's Orders. A distinct benefit of this draft Director's Order #75A is that civic engagement and public involvement expectations and guidance are now packaged into a single document. More detailed information on methods and techniques will follow in the form of a Sourcebook, which is now being developed. The draft Director's Order covers topics such as the importance of two-way communication and the need for creative public involvement efforts by NPS personnel so that the public will have a fuller voice in the work of the NPS. The draft Director's Order may be viewed on the Internet at *http://www.nps.gov/policy/DOrders/75A.htm.* Written copies may also be requested by contacting Marcia Keener at the address given above.

Civic Engagement and Public Involvement comports with the Secretary of the Interior's ''Four Cs'' principle of Consultation, Cooperation, and Communication, all in the service of Conservation. Another influence is a recent document that is currently being discussed and implemented within the NPS, the National Park System Advisory Board's report: ''Rethinking the National parks for the 21st Century.'' The report can be found on the Internet at *http://www.nps.gov/policy/futurereport.htm.* The report has much to say about increasing the level of public participation and involvement with the National Park System. In part, the report states that:

> Too often the Park Service has been hesitant to engage outside talent, preferring to look inward for ideas and solutions to problems. This must change. Park staff can no longer be insular, but must work closely with private landowners, local community groups, local governments, and other federal agencies. Cooperation with neighbors is vital to conserve park resources. At a time of public cynicism about many matters on the national scene, opinion surveys indicate that the Park Service enjoys one of the highest public approval ratings of all government agencies. From the beginning the Park Service has sought to be people-friendly. The public looks upon national parks almost as a metaphor for America itself. To encourage ecological stewardship outside the parks, the Service should cooperate extensively with its neighbors-federal agencies, states, counties, cities, tribes, the private sector, even other countries.

Individual respondents may request that we withhold their name and/or address from the record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment.

FOR FURTHER INFORMATION CONTACT: Marcia Keener, Program Analyst, 202–208–7456.

Dated: July 17, 2003.

Loran Fraser,

Chief, Office of Policy and Regulations.

[FR Doc. 03–18695 Filed 7–22–03; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Draft Director's Order Concerning National Park Service Policies and Procedures Governing its Environmental Management Systems

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The National Park Service (NPS) is proposing to adopt a Director's Order setting forth the policies and procedures under which NPS facilities will develop and implement Environmental Management Systems (EMS). This is necessary because Executive Order 13148 requires that an EMS be implemented at all appropriate Federal facilities by December 31, 2005. The Director's Order will help ensure that all necessary actions are taken to integrate environmental accountability into day-to-day decision-making and long-term planning processes, and across all NPS activities and functions.

DATES: Written comments will be accepted until August 22, 2003.

ADDRESSES: Draft Director's Order #13A is available on the Internet at http://www.nps.gov/policy. Requests for copies of, and written comments on, the Director's Order should be sent to Carl Wang, NPS Environmental Management Program Manager, Park Facility Management Division, 1849 C Street, NW., Washington DC 20240, or to his Internet address: *carl_wang@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Carl Wang at 202/513–7033.

SUPPLEMENTARY INFORMATION: The NPS is updating its current system of internal written instructions. When these documents contain new policy or procedural requirements that may affect parties outside the NPS, they are first made available for public review and comment before being adopted. The draft Director's Order covers topics such as the principles of an EMS; NPS EMS policy; and elements of an EMS (*e.g.*, a commitment statement, goals and targets, recordkeeping, communication, training, monitoring, measurement, corrective action, management review, and roles and responsibilities). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment.

Dated: April 30, 2003.

Dale J. Wilking,

Chief, Park Facility Management Division.

[FR Doc. 03–18699 Filed 7–22–03; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Interchangeable Virtual Instruments Foundation, Inc.

Notice is hereby given that, on June 30, 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''), Interchangeable Virtual Instruments Foundation, Inc. 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, ICS Electronics, Pleasanton, CA; and GCSD Division of Harris Corp., Melbourne, FL have been added as parties to this venture. Also, Solectron, Milpitas, CA; and Nokia Mobile Phones Inc., San Diego, CA have been dropped 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 Interchangeable Virtual Instruments Foundation, Inc. intends to file additional written notification disclosing all changes in membership.

On May 29, 2001, Interchangeable Virtual Instruments Foundation, Inc. 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 July 30, 2001 (66 FR 39336).

The last notification was filed with the Department on April 8, 2003. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on May 7, 2003 (68 FR 24502).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–18714 Filed 7–22–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI Systems Alliance, Inc.

Notice is hereby given that, on June 30, 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''), PXT Systems Alliance, Inc. 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, Aeroflex, Inc., Wichita, KS; Nextronics, Taipei Hsien, Taiwan; Huntron, Inc., Mill Creek, WA; SMA Regelsysteme GmbH, Niestetal, Germany; and Acculogic, Inc., Markham, Ontario, Canada 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 PXI Systems Alliance, Inc. intends to file additional written notification disclosing all changes in membership.

On November 22, 2000, PXI Systems Alliance, Inc. 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 March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on April 8, 2003. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 7, 2003 (68 FR 24502).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–18713 Filed 7–22–03; 8:45 am]

BILLING CODE 4410–71–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 03–082]

Return to Flight Task Group; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Return to Flight Task Group (RTFTG).

DATES: Thursday, August 7, 2003, 11:30 a.m. to 2 p.m.

ADDRESSES: John F. Kennedy Space Center, Visitors Complex, Debus Center, Highway 405, Kennedy Space Center, FL 32899, (321)–867–2468.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Lengyel, Executive Secretary, National Aeronautics and Space Administration, Houston, TX 77058, (281) 283–7581.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Return to Flight Task Group is co-chaired by Lieutenant General Thomas Stafford, USAF, (Retired) and Mr. Richard O. Covey, using expertise from the Stafford IOR Advisory Expert Council—Task Force, personnel from the aerospace industry, federal government, academia, and the military. The Task Group will periodically report their assessments to the agency, and deliver a written report to the NASA Administrator one month before the return to flight of the Space Shuttle launch (STS–114). The agenda for the meeting is as follows:

—Task Group Charter/Panel Charters.

—Report Writing (Interim and Final Report Discussion).

—Draft Johnson Space Center Agenda.

Prior to the public meeting, the members of the Task Group will be receiving briefings concerning administrative matters, such as Federal Advisory Committee Act, Government personnel, travel and ethics issues, background briefings relative to their tasks and a tour of relevant facilities at the John F. Kennedy Space Center. It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–18758 Filed 7–22–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On June 9, 2003, the National Science Foundation published a notice in the **Federal Register** of a permit application received. A permit was issued on July 16, 2003 to:

Peter Doran Permit No. 2004–004

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 03–18753 Filed 7–22–03; 8:45 am]

BILLING CODE 7555–01–M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Voluntary Customer Surveys in Accordance with Executive Order 12862, OMB 3220–0192. In accordance with Executive Order 12862, the Railroad Retirement Board (RRB) conducts a number of customer surveys designed to determine the kinds and quality of services our beneficiaries, claimants, employers and members of the public want and expect, as well as their satisfaction with existing RRB services. The information collected is used by RRB management to monitor customer satisfaction by determining to what extent services are satisfactory and where and to what extent services can be improved. The surveys are limited to data collections that solicit strictly voluntary opinions, and do not collect information which is required or regulated.

The information collection, which was first approved by the Office of Management and Budget (OMB) in 1997, provides the RRB with a generic clearance authority. This generic authority allows the RRB to submit a variety of new or revised customer survey instruments (needed to timely implement customer monitoring activities) to the OMB for expedited review and approval.

The average burden per response for customer satisfaction activities is estimated to range from 2 minutes for a Web site questionnaire to 2 hours for participation in a focus group. The RRB estimates an annual burden of 2,050 annual respondents totaling 727 hours for the generic customer survey clearance.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 03–18686 Filed 7–22–03; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Statement of Claimant or Other Person.

(2) *Form(s) submitted:* G–93.

(3) *OMB Number:* 3220–0183.

(4) *Expiration date of current OMB clearance:*

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households, business or other for-profit.

(7) *Estimated annual number of respondents:* 900.

(8) *Total annual responses:* 900.

(9) *Total annual reporting hours:* 225.

(10) *Collection description:* Under Section 2 of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, pertinent information and proofs must be submitted by an applicant so that the Railroad Retirement Board can determine his or her entitlement to benefits. The collection obtains information supplementing or changing information previously provided by an applicant.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363).

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 03–18687 Filed 7–22–03; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48187; File No. SR–NASD–2003–106]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Amendments to Pilot Rule in IM–10100(f) and (g) of the Code of Arbitration Procedure To Require Industry Parties in Arbitration To Waive Application of Contested California Arbitrator Disclosure Standards upon the Request of Customers or Associated Persons

July 16, 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 July 8, 2003, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. (''NASD Dispute Resolution'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Dispute Resolution. NASD has designated the proposed rule change as constituting a ''non-controversial'' rule change pursuant to section 19(b)(3)(A) of the Act[3] and Rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

19b–4(f)(6) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD proposes to amend the pilot rule in IM–10100(f) and (g) of the NASD Code of Arbitration Procedure to expand and clarify the scope of the requirement that industry parties waive application of the contested California Arbitrator Disclosure Standards upon the request of customers or associated persons. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

10000. Code of Arbitration Procedure

IM–10100. Failure To Act Under Provisions of Code of Arbitration Procedure

It may be deemed conduct inconsistent with just and equitable principles of trade and a violation of Rule 2110 for a member or a person associated with a member to:

(a)–(e) No change.

(f) fail to waive the California Rules of Court, Division VI of the Appendix, entitled, ''Ethics Standards for Neutral Arbitrators in Contractual Arbitration'' (the ''California Standards''), if all the parties in the case who are customers, *or associated persons with a claim against a member firm or another associated person,* have waived application of the California Standards in that case. *The written waiver by the customer or the associated person asserting the claim against a member or associated person under the Code shall constitute and operate as a waiver for all member firms or associated persons against whom the claim has been filed. This rule applies to claims brought in California against all member firms and associated persons, including terminated or otherwise inactive member firms or associated persons.* [; or

(g) fail to waive the California Standards, if all the parties in the case who are associated persons with a claim alleging employment discrimination, including a sexual harassment claim, in violation of a statute have waived application of the California Standards in that case.] Remainder unchanged.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD 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. NASD 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

Background

On July 1, 2002, California introduced new rules governing the arbitration process in that state. The rules were designed to address conflicts of interest in private arbitration forums that are not part of a federal regulatory system overseen on a uniform, national basis by the SEC. The California Standards conflict with NASD's current arbitrator disclosure rules. Because NASD could not both administer its arbitration program in accordance with its own rules and comply with the new California Standards at the same time, NASD initially suspended the appointment of arbitrators in cases in California, but offered parties several options for pursuing their cases.[5]

In September 2002, NASD proposed implementation on an accelerated basis of a six-month pilot amendment to IM–10100 that would require all parties that are member firms or associated persons to waive the California Standards if all the parties in the case who are customers, or associated persons with a statutory employment discrimination claim, have waived application of the California Standards in that case. Under such a waiver, the case would proceed in California. The Commission approved the proposed rule change for a six-month period ending March 30, 2003,[6] and recently extended the pilot rule for an additional six-month period.[7] The pilot rule will expire on September 30, 2003.

Description of Proposed Rule Change

The proposed rule change would amend the pilot rule in several respects. First, it would extend the rule to apply to all claims by an associated person against a member firm or another associated person, as well as to all customer claims. Currently, the pilot rule only applies to customer claims and to statutory discrimination claims brought by an associated person against a member firm. As a result, cases involving other claims by associated persons against member firms or other associated persons (''industry respondents'') cannot proceed if the industry respondents do not agree to waive the California Standards. To permit these cases to move forward, the proposed rule change would expand the current pilot rule to require that if an associated person with a claim against an industry respondent waives the application of the California Standards, all other industry respondents must also waive the application of the California Standards in that case. This change is consistent with New York Stock Exchange Rule 600(g), and would permit claims by associated persons against industry respondents in California to go forward.

The proposed rule change would also provide that, if a customer, or an associated person with a claim against an industry respondent, agrees to waive the application of the California Standards, and an industry respondent has not signed and returned a waiver form, the industry respondent will be deemed to have waived the application of the standards in that case. Currently, NASD requires member firms and associated persons covered by the rule to sign and return the waiver agreement. NASD staff often must call industry respondents to remind them to send in their waiver forms. When execution of the agreement by the respondent member or associated person is mandatory under the rule, this requirement adds an unnecessary administrative step to the arbitration process. Therefore, NASD is proposing to amend the pilot rule to provide, as NYSE Rule 600(g) currently does, that a written waiver by a customer or an associated person who is asserting a claim against a member or associated person under the Code will constitute a waiver for all member firms or

[4] 17 CFR 240.19b–4. In its filing, NASD requested that the Commission waive the rule's requirements of a five-day pre-filing notice and a 30-day operative delay.

[5] These measures included providing venue changes for arbitration cases, using non-California arbitrators when appropriate, and waiving administrative fees for NASD-sponsored mediations.

[6] *See* Securities Exchange Act Release No. 46562 (September 26, 2002), 67 FR 62085 (October 3, 2002).

[7] *See* Securities Exchange Act Release No. 47631 (April 3, 2002) 68 FR 17713 (April 10, 2003).

associated persons against whom the claim has been filed.[8]

Finally, NASD is proposing to amend the pilot rule to clarify that it applies to respondents who are terminated members and associated persons.[9] As of June 5, 2003, there were 33 cases in which all customers and active industry parties had signed waivers, but the terminated members or associated persons had not signed. Another 51 pending cases involved both active and terminated industry parties that had not yet signed waivers; these cases could not proceed even if the active industry parties were deemed to have waived, unless the rule covered terminated parties. The proposed rule change will eliminate any confusion regarding the scope of the rule and will facilitate the administration of cases against such parties in California while the rule is in effect.

2. Statutory Basis

NASD Dispute Resolution believes that the proposed rule change as amended is consistent with the provisions of section 15A(b) of the Exchange Act,[10] in general, and furthers the objectives of section 15A(b)(6),[11] in particular, which requires, among other things, that the NASD's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will allow customers and associated persons with claims against a member firm or another associated person to exercise their contractual rights to proceed in arbitration in California, notwithstanding the confusion caused by the disputed California Standards.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

NASD has designated the proposed rule change as one that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest. A proposed rule change filed under Rule 19b–4(f)(6) normally requires that a self-regulatory organization give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time. NASD seeks to have the five-business-day pre-filing requirement waived with respect to the proposed rule change. The Commission has determined to waive the five-business-day pre-filing requirement with respect to this proposal. Therefore, the foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

Pursuant to Rule 19b–4(f)(6)(iii) under the Act,[14] the proposal may not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. NASD has requested that the Commission waive the 30-day operative delay so that the proposed rule change will become immediately effective upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest to waive the 30-day period and to designate that the proposed rule change has become operative as of July 14, 2003.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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 NASD. All submissions should refer to File No. SR–NASD–2003–106 and should be submitted by August 13, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–18653 Filed 7–22–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48191; File No. SR–OC–2003–06]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by OneChicago, LLC Relating to MicroSector Futures

July 17, 2003.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–7 under the Act,[2] notice is hereby given that on June 20, 2003, OneChicago, LLC (''OneChicago'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change described in Items I and II below, which Items have been prepared

[8] The NASD amended this paragraph as it was originally filed to delete a phrase it inadvertently included. Telephone call between Laura Gansler, Counsel, NASD Dispute Resolution, and Andrew Shipe, Special Counsel, Division of Market Regulation, Commission, dated July 14, 2003.

[9] An associated person or member firm's obligation to arbitrate under the NASD Code of Arbitration Procedure survives resignation or termination from membership. *See O'Neel* v. *NASD,* 667 F. 2d 804 (9th Cir. 1982); *Muh* v. *Newburger, Loeb & Co., Inc.,* 540 F.2d 970 (9th Cir. 1976).

[10] 15 U.S.C. 78*o*–3(b).

[11] 15 U.S.C. 78*o*–3(b)(6).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

by OneChicago.[3] The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons. OneChicago also filed the proposed rule change with the Commodity Futures Trading Commission (''CFTC''), together with written certifications under Section 5c(c) of the Commodity Exchange Act (''CEA'')[4] on June 19, 2003.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

OneChicago is proposing to establish listing standards and amend its rules providing position limits, final settlement prices for futures on cash-settled narrow-based security indices, and employee confidentiality all of which are attached to the proposed rule change. The text of the proposed rule change follows; additions are *italicized*; deletions are [bracketed].

* * * * *

LISTING STANDARDS

For MicroSectors

CASH SETTLED NARROW-BASED INDEX FUTURES

V. Initial eligibility criteria for a MicroSector security futures product, based on an index composed of two or more securities.

A. For a cash settled Dow Jones MicroSector security futures product, the Dow Jones MicroSector Index must:

(i) Meet the definition of a narrow-based security index in Section 1a(25) of the Commodity Exchange Act and Section 3(a)(55) of the Exchange Act; and

(ii) Meet the following requirements:

(a) It must be approximately equal dollar-weighted composed of one or more securities in which each component security will be weighted equally based on its market price on the Selection Date.

(b) Each of its component securities must be registered under Section 12 of the Exchange Act.

(c) Each of its component securities must be a component security in the Dow Jones U.S. Total Market Index or an ADR linked to a security in the Dow Jones Global Index.

(d) Each of its component securities must be the subject of a U.S. exchange-traded option on the date of selection for inclusion in the index.

(e) Each of its component securities must have a trading history on a U.S. exchange for at least 12 months.

(f) Each of its component securities must have a ''float market capitalization'' of at least one billion dollars.

(g) Each of its component securities close at or above $7.50 for each of the trading days in the three months prior to selection for the index.

(h) Subject to (g), (i) and (k) below, component securities that account for at least 90 per cent of the total index weight and at least 80 per cent of the total number of component securities in the index must meet the requirements for listing a single-security future contract, as set forth in Section I.

(i) Each of its component securities must have an average daily trading volume in each of the preceding 12 months prior to selection for inclusion in the index greater than 109,000 shares (an ADR must have an average daily trading volume greater than 100,000 receipts).

(j) Each of its component securities must be (1) listed on an Exchange or traded through the facilities of an Association and (2) reported as an NMS security.

(k)(1) OneChicago must have in place an effective surveillance sharing agreement with the primary exchange in the home country where the stock underlying each component ADR is traded;

(2) The combined trading volume of each component ADR and other related ADRs and securities in the U.S. ADR market, or in markets with which OneChicago has in place an effective surveillance sharing agreement, represents (on a share equivalent basis) at least 50% of the combined worldwide trading volume in the ADR, the security underlying the ADR, other classes of common stock related to the underlying security, and ADRs overlying such other stock over the three-month period preceding the dates of selection of the ADR for futures trading (''Selection Date'');

(3)(A) The combined trading volume of each component ADR and other related ADRs and securities in the U.S. ADR market, and in markets with which OneChicago has in place an effective surveillance sharing agreement, represents (on a share equivalent basis) at least 20% of the combined worldwide trading volume in the ADR and in other related ADRs and securities over the three-month period preceding the Selection Date;

(B) The average daily trading volume for the ADR in the U.S. markets over the three-month period preceding the Selection Date is at least 100,000 receipts; and

(C) The daily trading volume for the ADR is at least 60,000 receipts in the U.S. markets on a majority of the trading days for the three-month period preceding the Selection Date;

(4) The Securities and Exchange Commission and Commodity Futures Trading Commission have otherwise authorized the listing; or

(5) Foreign securities or ADRs thereon that are not subject to comprehensive surveillance sharing agreements must not represent more than 20% of the weight of the index.

(l) The current underlying index value must be reported at least once every 15 seconds during the time the MicroSector futures product is traded on OneChicago.

(m) An index underlying a MicroSector future must be reconstituted and rebalanced if the notional value of the largest component is at least twice the notional volume of the smallest component for 50 per cent or more of the trading days in the three months prior to December 31 of each year. For purposes of this provision the ''notional value'' is the market price of the component times the number of shares of the underlying component in the index. Reconstitution and rebalancing are also mandatory if the number of component securities in the index is greater than five at the time of rebalancing. In addition, OneChicago reserves the right to rebalance quarterly at its discretion.

(n) The MicroSector futures products will be AM settled.

(o) The initial indexes underlying MicroSector futures products will be created only for industry groups that have five or more qualifying securities.

VI. Maintenance standards for a MicroSector futures product based on an index composed of two or more securities.

A. OneChicago will not open for trading MicroSector futures products that are cash settled based on an index composed of two or more securities with a new delivery month unless the underlying index:

(i) Meets the definition of a narrow-based security index in Section 1a(25) of the Commodity Exchange Act and Section 3(a)(55) of the Exchange Act; and

(ii) Meets the following requirements:

(a) All of its component securities must be registered under Section 12 of the Exchange Act;

(b) Subject to (d) and (i) below, component securities that account for at least 90 per cent of the total index weight and at least 80 per cent of the

[3] With the permission of OneChicago, the Commission made a typographical, non-substantive correction to the text of the proposed rule change. *See* telephone conversation between Madge Hamilton, Deputy General Counsel, OneChicago and Andrew Shipe, Special Counsel, Division of Market Regulation, Commission, July 7, 2003.

[4] 7 U.S.C. 7a–2(c).

total number of component securities in the index must meet the requirements for listing a single-security future, as set forth in Section I.

(c) Each component security in the index must have a market capitalization of at least $75 million, except that each of the lowest weighted component securities that in the aggregate account for no more than 10 per cent of the weight of the index may have a market capitalization of only $50 million.

(d) The average daily trading volume in each of the preceding six months for each component security in the index must be at least 22,750 shares or receipts, except that each of the lowest weighted component securities in the index that in the aggregate account for no more than 10 per cent of the weight of the index may have an average daily trading volume of at least 18,200 shares for each of the last six months.

(e) Each component security in the index must be (1) listed on an Exchange or traded through the facilities of an Association and (2) reported as an NMS security.

(f) The current underlying index value must be reported at least once every 15 seconds during the time the security futures product is traded on OneChicago.

(g) An approximately equal dollar weighted index underlying a MicroSector future must be reconstituted and rebalanced if the notional value of the largest component is at least twice the notional volume of the smallest component for 50 per cent or more of the trading days in the three months prior to December 31 of each year. For purposes of this provision the ''notional value'' is the market price of the component times the number of shares of the underlying component in the index. Reconstitution and rebalancing are also mandatory if the number of component securities in the index is greater than five at the time of rebalancing. In addition, OneChicago reserves the right to rebalance quarterly at its discretion.

(h) The total number of component securities in the index must not increase or decrease by more than 33⅓% from the number of component securities in the index at the time of its initial listing.

(i)(1) OneChicago must have in place an effective surveillance sharing agreement with the primary exchange in the home country where the stock underlying each component ADR is traded;

(2) The combined trading volume of each component ADR and other related ADRs and securities in the U.S. ADR market, or in markets with which OneChicago has in place an effective surveillance sharing agreement, represents (on a share equivalent basis) at least 50 per cent of the combined worldwide trading volume in the ADR, the security underlying the ADR, other classes of common stock related to the underlying security, and ADRs overlying such other stock over the three-month period preceding the dates of selection of the ADR for futures trading (''Selection Date'');

(3)(a) The combined trading volume of the ADR and other related ADRs and securities in the U.S. ADR market, and in markets with which OneChicago has in place an effective surveillance sharing agreement, represents (on a share equivalent basis) at least 20 per cent of the combined worldwide trading volume in the ADR and in other related ADRs and securities over the three-month period preceding the Selection Date;

(b) The average daily trading volume for the ADR in the U.S. markets over the three-month period preceding the Selection Date is at least 100,000 receipts; and

(c) The daily trading volume for the ADR is at least 60,000 receipts in the U.S. markets on a majority of the trading days for the three-month period preceding the Selection Date;

(4) The Securities and Exchange Commission and Commodity Futures Trading Commission have otherwise authorized the listing, or

(5) Foreign securities or ADRs thereon that are not subject to comprehensive surveillance sharing agreements must not represent more than 20 per cent of the weight of the index.

B. (1) If the foregoing maintenance standards are not satisfied prior to opening a MicroSector futures product with a new delivery month, OneChicago will either (i) replace the component security or securities that fail to meet the maintenance standards with a security or securities that qualify under the initial listing standards for MicroSector futures products set forth in Section V, or (ii) receive the approval of the Securities and Exchange Commission and the Commodity Futures Trading Commission.

* * * * *

210. Confidentiality

(a) No member of the Board or any committee established by the Board or the Rules of the Exchange shall use or disclose any material non-public information, obtained in connection with such member's participation in the Board or such committee, for any purpose other than the performance of his or her official duties as a member of the Board or such committee.

(b) No officer, employee or agent of the Exchange shall (i) trade in any commodity interest *or security* if such officer, employee or agent has access to material non-public information concerning such commodity interest *or security* (ii) disclose to any other Person material non public information obtained in connection with such employee's, officer's or agent's employment, if such employee, officer or agent could reasonably expect that such information may assist another Person in trading any commodity interest.

(c) For purposes of this Rule 210, the terms ''employee,'' ''material information,'' ''non-public information'' and ''commodity interest'' shall have the meanings ascribed to them in Commission Regulation § 1.59. *For purposes of this Rule 210, the term ''security'' shall have the meaning ascribed to it in Section 3(a)(10) of the Exchange Act.*

* * * * *

Rule 1002 Contract Specifications

(a)–(d) No Change

(e) Position Limit. *(1) Pursuant to* [For purposes of] Rule 414*(a)*, [the position limit applicable to positions in any] *the Exchange shall establish speculative position limits for each* cash-settled Stock Index Future held during the last five trading days of an expiring contract month, [shall be] *determined according to the methodology set forth in subparagraph (2).*

(2) The position limit for each cash-settled Stock Index Future shall be the number of contracts calculated according to formula (A) ''Market Cap Position Limit'' or (B) ''SSF Position Limit'' below, whichever is less, rounded to the nearest multiple of 1,000 contracts; provided, however, that if formula (A) or (B), whichever is less, calculates a number less than 500 but not less than 400 for any such Future, the position limit will be 1,000 contracts.

(A) ''Market Cap Position Limit''

i. *The Exchange will determine the market capitalization of the Standard & Poor's 500 index (the ''S&P 500'') as of the selection date for the component securities in an underlying Stock Index (the ''Selection Date'') (the ''S&P 500 Market Cap''); then*

ii. *The Exchange will calculate the notional value of a future position in CME's S&P 500 futures contract at its maximum limit (the ''S&P 500 Notional Value Limit'') by multiplying the S&P 500 by the position limit for Chicago Mercantile Exchange's (''CME'') S&P 500 futures (20,000 contracts in all*

months combined) and by the S&P 500 contract multiplier ($250) to calculate:

*S&P 500 Notional Value Limit = S&P 500 * 20,000 * $250; then*

iii. *The Exchange will divide the S&P 500 Market Cap by the S&P 500 Notional Value Limit to calculate the ''Market Cap Ratio'':*

Market Cap Ratio =
S&P 500 Market Cap
S&P 500 Notional Value Limit then

iv. *The Exchange will calculate the market capitalization of the Stock Index by adding together the market capitalization of each stock comprising the Stock Index (the ''Stock Index Market Cap''); then*

v. *The Exchange will calculate the notional value of the Stock Index Future (the ''Notional Value'') as follows:*

Notional Value =
Stock Index level * contract multiplier

vi. *The Exchange will calculate the Market Cap Position Limit of the Stock Index by dividing the Stock Index Market Cap by the product of the Notional Value of the Stock Index Future and the Market Cap Ratio:*

Market Cap Position Limit = Stock Index Market Cap
Notional Value * Market Cap Ratio

(B) ''SSF Position Limit''

i. The Exchange will calculate the notional value of the Stock Index Future (same as (A)(v) above):

Notional Value = Stock Index level * contract multiplier

ii. For each component security in the Stock Index, the Exchange will multiply its index weight by the Notional Value to determine that security's proportion of the Stock Index Future.*

iii. For each component security, the Exchange will divide the result in (B)(ii) by the security's price. This equals the number of shares of that security represented in the Stock Index contract.

iv. For each component security, the Exchange will divide the number of shares calculated in (B)(iii) by 100 to obtain the implied number of 100-share contracts per Stock Index Future contract.

v. The Exchange will divide the applicable single stock futures contract speculative position limit set in Commission Regulation 41.25(a)(3) (either 13,500 or 22,500 contracts) by the number of implied 100-share contracts. This provides the number of Stock Index Futures contracts that could be held without violating the speculative position limit on a futures contract on that component security (if such single stock futures contract existed). If the security qualifies for position accountability, ignore that security for purposes of this calculation.

vi. The Exchange will list the results of (B)(iv) and (B)(v). The SSF Position Limit is the minimum number of implied contracts based on this list.

(f)–(h) No Change

(i) Settlement Price.

(1) Daily Settlement Price. The daily settlement price for cash-settled Stock Index Futures will be calculated in the same manner as Rule 902(j).

(2) Final Settlement Price. (A) The final settlement price for cash-settled Stock Index Futures shall be determined on the third Friday of the contract month. If the Exchange is not open for business on the third Friday of the contract month, the final settlement price shall be determined on the Business Day prior to the third Friday of the contract month. The final settlement price for cash-settled Stock Index Futures shall be based on a special opening quotation of the underlying stock index (''Stock Index'').

(B) Notwithstanding subparagraph (2)(A) of this Rule, if an opening price for one or more securities underlying a Stock Index Future is not readily available, the Chief Executive Officer of the Exchange or his designee for such purpose (referred to hereafter in this Rule 1002(i) as the ''Designated Officer'') will determine whether the security or securities are likely to open within a reasonable time.

(i) If the Designated Officer determines that one or more component securities are not likely to open within a reasonable time, then for the component security or securities which the Designated Officer determined were not likely to open within a reasonable time, the last trading price of the underlying security or securities during the most recent regular trading session for such security or securities will be used to calculate the special opening quotation.

(ii) If the Designated Officer determines that the security or securities are likely to open within a reasonable time, then for the component security or securities which the Designated Officer determined were likely to open within a reasonable time, the next available opening price of such security or securities will be used to calculate the special opening quotation.

(C) For purposes of this provision:

(i) ''Opening price'' means the official price at which a security opened for trading during the regular trading session of the national securities exchange or national securities association that lists the security. If the security is not listed on a national securities exchange or a national securities association, then ''opening price'' shall mean the price at which a security opened for trading on the primary market for the security. Under this provision, if a component security is an American Depository Receipt (''ADR'') traded on a national securities exchange or national securities association, the opening price for the ADR would be derived from the national securities exchange or national securities association that lists it.

(ii) ''Special opening quotation'' means the Stock Index value that is derived from the sum of the opening prices of each security of the Stock Index.

(iii) ''Regular trading session'' of a security means the normal hours for business of a national securities exchange or national securities association that lists the security.

(iv) The price of a security is ''not readily available'' if the national securities exchange or national securities association that lists the security does not open on the day scheduled for determination of the final settlement price, or if the security does not trade on the securities exchange or national securities association that lists the security during regular trading hours.

(D) Notwithstanding any other provision of this Rule, this Rule shall not be used to calculate the final settlement price of a Stock Index Future if The Options Clearing Corporation fixes the final settlement price of such Stock Index Future in accordance with its rules and by-laws and as permitted by Commission Regulation § 41.25(b) and SEC Rule 6h–1(b)(3).

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OneChicago has prepared statements concerning the purpose of, and statutory basis for, the proposed rules, burdens on competition, and comments received from members, participants, and others. These statements are set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change would establish listing standards (''Listing Standards'') for cash-settled futures on

*Index weight of the component security = (assigned shares * price) of the component security / the sum of (assigned shares * price) for each component security.

narrow-based security indices that would trade under the brand name ''OneChicago Dow Jones MicroSector Futures'' (''MicroSector Futures''). The proposed rule change would also amend OneChicago Rule 1002(e) relating to position limits, Rule 1002(i) relating to the final settlement price of MicroSector Futures and Rule 210 relating to employee confidentiality.

Dow Jones & Company, Inc. (''Dow Jones'') with the assistance of OneChicago will maintain the Dow Jones MicroSector Index on which each MicroSector Futures is based in a manner consistent with the proposed Listing Standards.[5] Each Dow Jones MicroSector Index will initially be comprised of five component securities, which will be approximately equal dollar weighted. The five component securities will be selected based on their market capitalization, option volume, dollar volume and correlation to one another within an industry group as defined by the Dow Jones Global Classification Standard.

Weighting of Dow Jones MicroSectors

The initial notional value of each Dow Jones MicroSector Index will be $40,000. Share lots will be created to ''approximate equal dollar weighting'' for each component security in a Dow Jones MicroSector Index. Therefore, the aggregate market value of the shares in each share lot will initially equal $8,000.[6]

Composition of Dow Jones MicroSector Indexes

The proposed Listing Standards require each security to meet all of the following qualifications to be included in a Dow Jones MicroSector Index:

- Be registered under section 12 of the Exchange Act;* [7]
- Be a common stock or an American Depositary Receipt (''ADR'') representing common stock or ordinary shares;
- Be a component security in the Dow Jones U.S. Total Market Index or an ADR linked to a company in the Dow Jones Global Index SM;[8]
- Have U.S. exchange-traded options on the security;
- Have a trading history on a U.S. exchange for at least 12 months;
- Have a ''float market capitalization'' [9] of at least one billion dollars; [10]
- Have at least seven million shares or receipts evidencing the underlying security outstanding that are owned by persons other than those required to report their security holdings pursuant to Section 16(a) of the Act; [11] *
- Have at least 2,000 security holders;*
- Close at or above $7.50 for each of the trading days in the three months prior to the Selection Date; and
- Have an average daily trading volume (''ADTV'') for each of the 12 months prior to the Selection Date greater than 109,000 shares (an ADR must have an ADTV greater than 100,000 receipts).

A Dow Jones MicroSector will only be created if five or more securities in an eligible industry group qualify under the foregoing criteria.

Reconstitution and Rebalancing the Index

Under the proposed Listing Standards, a Dow Jones MicroSector Index will be reconstituted and rebalanced if the aggregate market value of the largest component is at least twice the aggregate market value of the smallest component for 50 percent or more of the trading days in the three months prior to the Selection Date. Reconstitution and rebalancing are mandatory if, as a result of spin-offs or other corporate action, the number of component securities in the index exceeds five. OneChicago also reserves the right to rebalance quarterly at its discretion.

Corporate Actions

In the event Dow Jones needs to remove a stock from a Dow Jones MicroSector as a result of a bankruptcy, ten consecutive no-trade days, delisting from NYSE, Nasdaq, or Amex, or financial distress, Dow Jones will add a replacement security on the effective date of the removal to maintain a total of five component securities in the index. If a Dow Jones MicroSector falls below four stocks, either Dow Jones will replace the component securities to bring the number of component securities in the index back up to five or OneChicago will delist the related MicroSector Future.

Corporate actions affecting the price of the component securities in a Dow Jones MicroSector (*e.g.*, splits and dividends) will require an adjustment of the share lots to maintain index integrity. The adjustments will be made before the open of trade on the effective date of the action. All adjustments to the share lots will preserve the weighting prior to and after the corporate event, causing no change to the index level or divisor. When a component security is removed from a Dow Jones MicroSector due to a merger, the common stock of the acquiring company will replace the component security in the index and will be kept in the index until the next Selection Date.

The following is a chart of how corporate actions will be handled:

CORPORATE ACTIONS

Type		Adjustments		Notes
Action	Company	Close price/action	Share lot	
Special Cash Dividend.	Component of Index.	Adj. Close=Prev. Close − Dividend.	Adj. Share Lot=(Share Lot* Prev Close)/Adj. Close.	
Stock Split or Dividend.	Component of Index.	Adj. Close=Prev. Close/Adjustment Factor.	Adj. Share Lot=Prev. Share Lot* Adjustment Factor.	Adjustment Factor=number of new shares for one old share

[5] In conjunction with the proposed rule change, OneChicago is amending Rule 210 to prevent potential misuse by OneChicago staff of material, non-public information in connection with the maintenance of the Dow Jones MicroSector Indexes.

[6] The number of shares will be calculated by dividing the initial notional dollar value of each share lot ($8,000) by the closing price of the stock on the date on which the terms of the Dow Jones MicroSector Index are finalized or adjusted (the ''Selection Date'') carried out to eight decimal places.

[7] OneChicago (not the index calculation agent, Dow Jones) is responsible for ensuring that the components of the Dow Jones MicroSector Indexes comply with the criteria identified by an asterisk (*).

[8] Component securities in these indices are listed on the New York Stock Exchange, Inc. (''NYSE''), the American Stock Exchange LLC (''Amex'') or the Nasdaq Stock Market, Inc. (''Nasdaq'').

[9] ''Float market capitalization'' is the aggregate market value of the outstanding shares of the issuer which are available for trading by the public and does not include the market value of shares which are subject to trading restrictions.

[10] All market capitalization data is based on closing prices, number of outstanding shares, and number of shares available for trading by the public as of the Selection Date.

[11] 15 U.S.C. 78p(a).

CORPORATE ACTIONS—Continued

Type		Adjustments		Notes
Action	Company	Close price/action	Share lot	
Spin Off	Component of Index (A).	Adj. Close=Close – (Ratio * Spun off company's Price).		Ratio=number of shares of spun-off company received for every share of parent company owned. Spun-off company be added at a weight such that the market capitalization of the two companies after the event is equal to the market capitalization of the parent prior to the event.
	Spun Off Company (B).	ADDED	Share Lot=((Share Lot A* Prev. Close A) – (Adj. Share Lot A*Adj. Close A))/Close B.	
Two Components Merge in an All Stock, Cash or Combination Deal.	Remaining Companies (A).		Adj. Share Lot=Share Lot + B's Share Lot)/number of remaining components)/ A's Close.	All remaining companies will be adjusted using the formula to the left. Their shares will increase based on their price so as to distribute the weight of the acquired company evenly.
	Acquired Company (B).	DELETED		
A Non-Component Takes Over a Component.	Acquirer (A)	ADDED	Adj. Share Lot=(B's Share Lot * B's Close)/A's Close.	The acquiring company will replace the acquired company in the index and the share lot will be adjusted.
	Acquired Component of Index (B).	DELETED		
Rights Issue	Component of Index (A).	Adj. Close=(Close+(Ratio * Subscription Price))/ (1+Ratio).	Adj. Share Lot=(Close * Share Lot)/Adj. Close.	Ratio=number of rights received for 1 share of A.
Extraordinary Removal.	Replacement Company (A).	ADDED	Adj. Share Lot=(B's Share Lot * B's Close) A's Close.	Component B may be removed for: Bankruptcy proceedings, financial distress (as determined by Dow Jones), delisting from a primary exchange (NYSE, Nasdaq, Amex), or illiquidity (10 consecutive no-trade days). Replacement A would be the highest ranked (as of the most recent Selection Date) of the remaining securities in the industry group which qualify for inclusion.
	Component of Index (B).	DELETED		

Position Limits

The proposed rule change to Rule 1002(e) provides the methodology to calculate position limits [12] for any cash-settled futures contract on a narrow-based security index (''Stock Index''), including the *MicroSector Futures.* The Exchange would calculate two numbers: One is based on the market capitalization of each Stock Index future and the notional value compared to the market capitalization of the Chicago Mercantile Exchange (''CME'') position limit for its futures contract on the S&P 500 Index (referred to herein as the ''Market Cap Method''), and the other is based on the current position limit permitted for single stock futures under CFTC Regulation 41.25[13] (referred to herein as the ''SSF Limit Method''). The Exchange would impose a position limit on each Stock Index future equal to the lower number calculated by the two methods rounded to the nearest 1,000 contracts; provided, however, that if the result of either calculation is less than 500, but not less than 400 for any such Future, the position limit will be rounded up to 1,000 contracts.

Under the Market Cap Method, the Exchange would determine the market capitalization of the S&P 500 Index,[14] then calculate the notional value of a position at the limit of the CME's S&P 500 Index futures contract (the ''S&P 500 Notional Value Limit'') [15] and

[12] Consistent with CFTC Regulation 41.25, position limits apply to positions in any cash-settled stock index future held during the last five trading days of an expiring contract.

[13] 17 CFR 41.25.

[14] The Exchange will calculate the market capitalization as of the Selection Date.

[15] The speculative position limit for the CME's S&P 500 Index futures contract is 20,000 contracts (in all months combined) and the contract

divide the first amount by the second to determine the market capitalization ratio (the ''Ratio'').[16] The Exchange would then determine the market capitalization and the Notional Value of the Stock Index. To calculate the Market Cap Method number, the Exchange would divide the market capitalization of the Stock Index by the contract size of the Stock Index futures multiplied by the Ratio.[17]

Under the SSF Limit Method, the Exchange would calculate the Notional Value of the Stock Index Future.[18] For each component security in the Stock Index, the Exchange would multiply the index weight of the component security[19] by the Notional Value to determine the security's proportion of the Stock Index futures (''Share Weighting''). The Exchange would then divide each security's Share Weighting by its price to calculate the number of shares of that security represented in the Stock Index futures contract (''Implied Shares''). The Exchange would then, for each component security in the Stock Index, divide the Implied Shares by 100 to obtain the implied number of 100-share contracts of each component security in each Stock Index future contract. The Exchange would divide the applicable single stock futures position limit permitted under CFTC Regulation 41.25(a)(3)[20] (either 13,500 or 22,500 contracts) for each component security by the number of implied 100-share contracts. This equals the number of Stock Index futures contracts that could be held without exceeding the speculative position limit on a futures contract on the component security (''Implied SSF Speculative Limit''). If a component security qualified for position accountability under CFTC Regulation 41.25(a)(3),[21] this step would be ignored for that security for purposes of this calculation. After calculating the Implied SSF Speculative Limit for each security in the Stock Index, the Exchange identifies the lowest Implied SSF Speculative Limit as the position limit for such futures contract under the SSF Limit Method.

Final Settlement Price

OneChicago also proposes to add paragraph (i) to Rule 1002 to establish how the final settlement price will be calculated for Stock Index futures, including MicroSector Futures. Under the proposed rule change to Rule 1002(i), a special opening quotation (''SOQ'') of the relevant Stock Index will be calculated using the opening price of each component stock. When all of the component stocks have opened, the final SOQ will be calculated and disseminated.

If the price of a component security or securities is not readily available[22] on the day scheduled for determination of the final settlement price, the price of the component security or securities shall be based on the next available opening price of that security unless the Chief Executive Officer or his designee for such purposes (''Designated Officer'') determines that such security or securities will not open within a reasonable time. If the Designated Officer makes such a determination, the price of the relevant component security or securities for purposes of calculating the final settlement price, will be the price of the security or securities during the most recent regular trading session for such security or securities.

Proposed Rule 1002(i) also provides that the Rule shall not be used to calculate the final settlement price of a Stock Index futures if The Options Clearing Corporation (''OCC'') fixes the final settlement price of the Stock Index future in accordance with OCC's rules and By-Laws and as permitted under the Commission's Rule 6h-1(b)(3)[23] and CFTC Regulation 41.25.[24]

CFMA Listing Standard Requirements for Security Futures

Section 6(h) of the Act[25] requires that certain standards be met for an exchange to trade security futures products (''SFPs''). The proposed rule change meets these standards. First, section 6(h)(3)(A) of the Act[26] requires that each security underlying a SFP must be registered pursuant to section 12 of the Act. Both the initial and maintenance Listing Standards for MicroSector Futures meet this requirement.[27]

Section 6(h)(3)(C) of the Act[28] requires that OneChicago's Listing Standards for MicroSector Futures be no less restrictive than comparable listing standards for options traded on a national securities exchange. On September 5, 2001, the SEC Division of Market Regulation (the ''Division'') published Staff Legal Bulletin No. 15 (''Bulletin No. 15'')[29] to offer guidance on how a securities exchange can satisfy this requirement. One Chicago states that the proposed Listing Standards follow the model listing standards in Bulletin No. 15 with a few modifications to tailor the Listing Standards to this particular product.

First, under the proposed Listing Standards, OneChicago notes that the component securities of the Dow Jones MicroSector Indices must have a ''float market capitalization'' of at least *one billion dollars.*[30] In contrast, the model listing standards in Bulletin No. 15 state that component securities of an index have a minimum market capitalization of only $75 million.[31] Second, OneChicago notes that the proposed Listing Standards require that the component securities of a Dow Jones MicroSector Index have an ADTV of *109,000 shares* in each of the preceding *12 months,*[32] whereas the model listing standards in Bulletin No. 15 suggest that each component security have an ADTV of only 45,500 shares for each of the preceding six months.[33]

Since the only index weighting methodology that will be permitted for Dow Jones MicroSector Indices is approximate equal dollar weighted, no references to other types of index weighting methodologies in the model listing standards in Bulletin No. 15 were incorporated into the Proposed Listing Standards.[34] Another modification from the model listing standards in Bulletin No. 15 was made in the proposed

multiplier is $250. S&P 500 Notional Value Limit = Index * 20,000 * 250.

[16] Ratio = Market Capitalization of S&P 500 Index / S&P 500 Notional Value Limit.

[17] Market Capitalization Methodology number = market capitalization of the Stock Index / (contract size of the Stock Index Future * Ratio).

[18] Notional Value = index level * contract multiplier.

[19] Index weight of the component security = (assigned shares * price) of the component security / the sum of (assigned shares * price) for each component security.

[20] 17 CFR 41.25(a)(3).

[21] 17 CFR 41.25(a)(3).

[22] Under proposed Rule 1002(i)(2)(C)(iv), the price of a security is ''not readily available'' if the underlying market does not open on the date set for determination of the final settlement price or if the security does not trade on such securities exchange or national securities association during regular trading hours.

[23] 17 CFR 240.6h-1(b)(3).

[24] 17 CFR 240.41.25(b).

[25] 15 U.S.C. 78f(h)(3)(A).

[26] 15 U.S.C. 78l.

[27] See proposed Listing Standards requirements V.A.ii.b. and VI.A.ii.a.

[28] 15 U.S.C. 78f(h)(3)(C).

[29] U.S. Securities and Exchange Commission, Division of Market Regulation: Staff Legal Bulletin No. 15 (September 5, 2001).

[30] See proposed Listing Standard requirement V.A.ii.f.

[31] *See* Bulletin No. 15 model listing standard III.A.ii.d. Under this listing standard, each of the lowest weighted securities in the index that in the aggregate account for no more than 10 per cent of the weight of the index may have a minimum market capitalization of $50 million.

[32] *See* proposed Listing Standard requirement V.A.ii.i.

[33] *See* Bulletin No. 15 listing standard III.A.*ii.e.* Under this listing standard, each of the lowest weighted securities in the index that in the aggregate account for no more than 10 per cent of the weight of the index may have an ADTV of only 22,750 shares for each of the last six months.

[34] The following model listing standard requirements in Bulletin No. 15 were not adopted in the proposed Listing Standards III.A.ii.a, i and k, and IV.A.ii.j.

Listing Standards for ADRs. Under both the Bulletin No. 15 model listing standards and the proposed Listing Standards, a large portion of component securities must meet the listing standard requirements for single stock futures.[35] The ADR requirement for single stock futures deviates from what is suggested for ADRs under the Bulletin No. 15 model listing standard for a security futures product based on narrow-based security index.[36] OneChicago states that the listing standard requirement for single stock futures relating to ADRs [37] was incorporated into the proposed Listing Standard requirement for MicroSector Futures as an alternative.[38] In addition, eight new requirements were added to the proposed Listing Standards to accommodate this unique product.[39]

One Chicago states that the proposed Listing Standards incorporate the standards annunciated by the Division in Bulletin No. 15. Therefore, OneChicago believes that the proposed Listing Standards meet the requirement of section 6(h)(3)(C) of the Act.[40]

Section 6(h)(3)(D) of the Act [41] requires that all SFPs be based on common stock and such other equity securities as SEC and CFTC have jointly determined is appropriate. The SEC and CFTC have jointly permitted that SFPs may also be based on depositary shares.[42] Under the OneChicago Listing Standards, each component security must meet the initial listing standard requirement for security futures that it be a common stock or an American Depositary Receipt.[43] Therefore, OneChicago's Listing Standards meet this requirement.

Section 6(h)(3)(E) of the Act [44] requires that each security futures product be cleared by a clearing agency that has in place provisions for linked and coordinated clearing with other clearing agencies that clear security futures products, which permits the security futures product to be purchased on one market and offset on another market that trades such product. OneChicago notes that pursuant to section 6(h)(7) of the Act,[45] the foregoing requirement is deferred until the ''compliance date'' (as defined therein). OneChicago expects that both The Options Clearing Corporation and the Chicago Mercantile Exchange (''CME'') clearinghouse will have in place procedures complying with the requirements of clause (E) after such ''compliance date.''

Section 6(h)(3)(F) of the Act [46] requires that broker-dealers must be subject to suitability rules comparable to those of a national securities association to effect transactions in SFPs. OneChicago satisfies this requirement through its Rule 605 which requires members to comply with the sales practice rules of the National Futures Association (''NFA'') or the National Association of Securities Dealers, Inc. (''NASD''), which include suitability rules. Therefore, OneChicago meets this listing standard requirement.

Section 6(h)(3)(G) of the Act requires that SFPs be subject to the prohibition against dual trading in section 4j of the CEA [47] and CFTC regulations. Pursuant to section 4j of the CEA,[48] CFTC promulgated Regulation 41.27, which states that an electronic futures exchange is subject to the dual trading rule if the exchange provides market participants with a time or place advantage or the ability to override a predetermined algorithm.[49] Market participants have no such advantage or ability, so the dual trading rule does not apply to OneChicago.

Section 6(h)(3)(H) of the Act provides that SFPs must not be readily susceptible to manipulation of the price of the SFP, the price of the underlying security, the price of the option on such security, or options on a group or index including such securities. OneChicago believes that the design of the MicroSector futures fulfills this requirement. OneChicago states that the proposed Listing Standards require that component securities be highly capitalized with substantial daily trading volumes for the 12 months preceding the stocks' selection into the Dow Jones MicroSector Index. In addition, the proposed rule change to OneChicago Rule 1002(e) and (i) regarding the final settlement price and position limits of MicroSector Futures are also designed to deter manipulation.

The proposed rule change to Rule 1002(e) proposes a methodology to calculate position limits for cash-settled futures on narrow-based security indices. While OneChicago believes that these limits are appropriate for the launch of these products, because this product is unique and there is no other similar product to look to for guidance as to the appropriate position limit, once trading has begun OneChicago will monitor trading patterns in the MicroSector Futures and reassess the appropriateness of these position limits. OneChicago undertakes that if trading patterns indicate the position limits are not set at levels appropriate to deter manipulation, OneChicago will make the necessary adjustments to the position limits. In addition, OneChicago undertakes to coordinate surveillance with the relevant underlying stock markets to monitor for manipulation.

OneChicago has also proposed a final settlement rule that is designed to deter manipulation. Under proposed Rule 1002(i) the final settlement price of MicroSector Futures would be based on the opening price of each component stock. OneChicago believes that since the termination of MicroSector Futures will coincide with the expiration or termination of stock indices, options on stock indices and futures on stock indices, using the opening prices of each component security will reflect the price of the underlying securities when they are very liquid and thus more difficult to manipulate. The calculation of the final settlement price for these MicroSector Futures will be done on the same day and in a similar manner to the final settlement price for the options on the S&P 500 and the futures on the S&P 500. The expiration or termination of

[35] *See* Bulletin No. 15 model listing standard III.A.ii.c and IV.A.ii.b and proposed Listing Standard V.A.ii.h and VI.A.ii.b, which require that except for ADTV, the component securities that account for at least 90 percent of the total index weight and at least 80 percent of the total number of component securities in the index must meet the requirements for listing a single-security future, as set forth in Section I.

[36] *See* Bulletin No. 15 model listing standard III.A.ii.g and IV.A.ii.f.

[37] *See* OneChicago listing standard I.A.x.

[38] *See* proposed Listing Standards V.A.ii.k and VI.A.ii.k.

[39] *See* proposed Listing Standards V.A.ii.a (approximate equal dollar-weighted), V.A.ii.c. (component securities must be component securities in the Dow Jones U.S. Total Market Index or an ADR linked to a security in the Dow Jones Global Index), V.A.ii.d. (component securities must have U.S. exchange-traded options on the securities), V.A.ii.*e.* (component securities must have a trading history on a U.S. exchange for at least 12 months), V.A.ii.g (component securities must close at or above $7.50 for each of the trading days in the three months prior to Selection), V.A.ii.m (rebalancing of the index), V.A.ii.o (indexes will only be created for industry groups having five or more qualifying securities) and VI.A.ii.i (rebalancing of the index).

[40] 15 U.S.C. 78f(h)(3)(C).

[41] 15 U.S.C. 78f(h)(3)(D).

[42] Securities Exchange Act Release No. 44725 (August 20, 2001). ''A depositary share is defined as a security evidenced by an American Depository Receipt that represents a foreign security or a multiple or factions thereof. See 17 CFR 240.12b-2.'' Id. at footnote 14.

[43] Proposed Listing Standard V.A.ii.h requires that except for the ADTV, ''component securities that account for at least 90% of the total index weight and at least 80% of the total number of component securities in the index must meet the requirements for listing a single-security futures contract, as set forth in Section I.'' Section I.A.i. requires that the security underlying futures product based on a single security be a common stock or an American Depositary Receipt representing common stock.

[44] 15 U.S.C. 78f(h)(3)(D).

[45] 15 U.S.C. 78f(h)(7).

[46] 15 U.S.C. 78f(h)(3)(F).

[47] 7 U.S.C. 6i.

[48] Id.

[49] 17 C.F.R. 41.27(b)(2).

these large S&P 500 contracts will provide more liquidity to the opening of the underlying markets. Thus, the final settlement price based on opening prices is designed to deter manipulation.

In addition, OneChicago Rule 603 specifically prohibits market manipulation, and OneChicago Rule 604 prohibits members or access persons from violating applicable laws. Therefore, OneChicago believes that it meets this requirement.

Section 6(h)(3)(I)[50] of the Act requires that procedures be in place for coordinated surveillance among the market on which the SFP is traded, any market on which any security underlying the SFP is traded and other markets on which any related security is traded to detect manipulation and insider trading. OneChicago is an affiliate member of the Intermarket Surveillance Group through which it has an agreement to share market surveillance and regulatory information with other members of the group, which includes all of the predominant U.S. securities exchanges. OneChicago is also a member of the Joint Audit Committee, in which the futures self-regulatory organizations have an agreement to share information for regulatory purposes. Therefore, OneChicago believes it meets this requirement.

Section 6(h)(3)(J) of the Act[51] requires that an exchange have audit trails that are necessary or appropriate to facilitate the coordinated surveillance required under Section 6(h)(3)(I) of the Act.[52] The audit trail capability provided by CBOE*direct*®, the trade matching engine used by OneChicago, will create and maintain an electronic transaction history database that contains information with respect to all orders, whether executed or not, and resulting transactions on the Exchange. This applies to orders entered through CBOE*direct*® terminals as well as to orders routed to CBOE*direct*® through CME's Globex® system. The information recorded with respect to each order includes: time received (by CBOE*direct*'' or Globex''), terms of the order, order type, instrument and contract month, price quantity, account type, account designation, user code and clearing firm.

OneChicago's electronic audit trail will consist of data recorded by CBOE*direct*'' and Globex®, and OneChicago will have full access to all such data. Information logged by CBOE*direct*®, including in respect of orders received through CBOE*direct*® terminals, will be archived and provided to OneChicago each day. Orders received through Globex® will be archived and maintained at CME. Together these data sets will enable OneChicago to trace each order back to the clearing firm by or through which it was submitted. If any question or issue arises as to the source of an order prior to submission by or through a clearing firm, OneChicago will request that the clearing firm provide an electronic or other record of the order.

For orders that cannot be immediately entered into either CBOE*direct*® and Globex®, and therefore will not be recorded electronically at the time they are placed, OneChicago Rule 403(b) requires that the Clearing Member or, if applicable, the Exchange Member or the Access Person receiving such order must prepare an order form in a non-alterable written medium, which must be time-stamped when received and include the account designation, date and other required information (*i.e.*, order terms, order type, instrument and contract month, price and quantity). Each such form must be retained for at least five years from the time it is prepared. In addition, OneChicago Rule 501 establishes a general recordkeeping requirement pursuant to which each Clearing Member, Exchange Member and Access Person must keep all books and records as required to be kept by it pursuant to the Commodity Exchange Act, CFTC regulations, the Act, regulations under the Act and the Rules of the Exchange. OneChicago Rule 501 also requires that such books and records be made available to the Exchange upon request. Current CFTC regulations require books and records to be maintained for a period of five years. OneChicago believes that its audit trail meets the requirement of section 6(h)(3)(J) of the Act.[53]

Block trades will be entered in CBOE*direct*® by OneChicago's operations management after they are verbally reported by designated individuals at the Clearing Member for the selling party. At the time of each such verbal report, a trade identification number will be assigned and provided to the caller. Both the buyer and the seller in each trade will then follow up the verbal report by submitting a block trade reporting form via facsimile or email to OneChicago. Generally, the same procedures apply to exchange of futures for physical (''EFP'') transactions, except that no verbal report is required for such transactions. Since block trades and EFP transactions involve orders that cannot be immediately entered into either CBOE's or CME's systems, the Clearing Members or, if applicable, Exchange Members or Access Persons involved must comply with the procedures specified in the preceding paragraph.

Section 6(h)(3)(K) of the Act[54] requires that a market on which a security futures product is traded have in place procedures to coordinate trading halts between such market and any market on which any security underlying the security futures product is traded and other markets on which any related security is traded. OneChicago Rule 419 requires that trading in a security future be halted at all times that a regulatory halt has been instituted for the relevant underlying security or securities.

Section 6(h)(3)(L) of the Act[55] requires that the margin requirements for a security futures product comply with the regulations prescribed pursuant to section 7(c)(2)(B) of the Act.[56] The Commission approved OneChicago Rule 515, which fulfills this requirement.[57]

2. Statutory Basis

OneChicago states that the proposed rule change is consistent with section 6(b)(5) of the Act[58] in that it promotes competition, is designed to prevent fraudulent and manipulative acts and practices, and is designed to protect investors and the public interest. OneChicago states that the proposed rule change would promote competition by making new products available to the public. OneChicago also states that the proposed rule change is also designed to deter manipulation of MicroSector Futures and to prevent using the product for fraudulent or manipulative trading in the component securities and their derivatives. In addition, the proposed position limit and final settlement rules along with surveillance and enforcement of these proposed rules are intended to deter manipulative activity in this product. In this manner, OneChicago states that the proposed rule change is designed to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

OneChicago does not believe that the proposed rule change will have an impact on competition because it

[50] 15 U.S.C. 78f(h)(3)(I).

[51] 15 U.S.C. 78f(h)(3)(J).

[52] 15 U.S.C. 78f(h)(3)(I).

[53] 15 U.S.C. 78f(f)(3)(J).

[54] 15 U.S.C. 78(h)(3)(K).

[55] 15 U.S.C. 78f(h)(3)(L).

[56] 15 U.S.C. 78g(c)(2)(B).

[57] Securities Exchange Act Release No. 46787 (November 7, 2002), 67 FR 69059 (Nobember 14, 2002) (SR–OC–2002–01).

[58] 15 U.S.C. 78f(b)(5).

believes that the proposed rule change will promote competition by permitting OneChicago to bring new products to the market.

C. Self-Regulatory Organization's Statement on Comments on Proposed Rules Received From Members, Participants, or Others

Comments on the OneChicago proposed rule change have not been solicited and none have been received.

III. Date of Effectiveness of the Proposed Rules and Timing for Commission Action

Pursuant to section 19(b)(7)(B) of the Act,[59] the proposed rule change became effective on June 20, 2003. Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of section 19(b)(1) of the Act.[60]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rules conflict with the Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically to the following e-mail address: *rule-comments@sec.gov.*

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rules that are filed with the Commission, and all written communications relating to the proposed rules between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of these filings will also be available for inspection and copying at the principal office of OneChicago. Electronically submitted comments will be posted on the Commission's Internet Web site (*http://www.sec.gov*). All submissions should refer to File No. SR–OC–2003–06 and should be submitted by August 13, 2003.

[59] 15 U.S.C. 78s(b)(7)(B).

[60] 15 U.S.C. 78s(b)(1).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[61]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–18736 Filed 7–22–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48193; File No. SR–PCX–2003–33]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Minor Rule Plan Housekeeping Changes

July 17, 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 July 8, 2003, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend the Exchange's Minor Rule Plan (''MRP'') and Recommended Fine Schedule (''RFS'') (PCX Rule 10.13) in order to make a number of non-substantive and technical changes. The text of the proposed rule changes is available at the PCX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX 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.

[61] 17 CFR 200.30–3(a)(75).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend its MRP and RFS (PCX Rule 10.13) in order to make a number of non-substantive and technical changes. The Exchange also proposes to make minor conforming changes to various other rules where appropriate.

First, the Exchange proposes to amend PCX Rule 6.37(d) to correct a minor technical error. PCX Rule 6.37(d) states that formal disciplinary action may be taken if aggravating circumstances are found, pursuant to PCX Rule 10.3. The Exchange proposes to amend the text to reflect the correct rule number, which is ''10.4''. Second, the Exchange proposes to amend PCX Rule 6.37(h)(6) so that the first sentence in the rule will read ''action and suspension'' instead of ''action or suspension.'' This was a technical error that the Exchange wishes to correct at this time.

Third, the Exchange proposes to correct a technical error in PCX Rules 10.13(h)(34) and 10.13(k)(i)(34). The text incorrectly references that PCX Rule 10.13(h)(34) is a violation of ''Rule 6.87(d)(3)''. The Exchange wishes to amend the text to reflect the correct rule number, which is ''Rule 6.87(e)(3)''. Fourth, the Exchange proposes to amend PCX Rule 6.89(b)(7), where the Exchange inadvertently used the acronym ''PSE'' instead of ''PCX'' in the rule text. Thus, the Exchange proposes to correct the technical error and replace the acronym PSE with the current acronym, PCX.

Fifth, the Exchange proposes to amend PCX Rules 10.13(h)(2) and 10.13(k)(i)(2) of the MRP and RFS. The purpose of this change is to replace the term ''floor broker'' with the term ''member'' in the text as the underlying rule violation (PCX Rule 6.67) is not limited to floor brokers and applies to all members. Sixth, the Exchange proposes to amend PCX Rule 10.13(e) in order to correct a technical error. Under the proposed amendment, the term ''Compliance Department'' will be replaced with the term ''Corporate Secretary'' as the latter is the correct office for this process at the Exchange.

Seventh, the Exchange proposes to amend PCX Rules 10.13(j)(1) and 10.13(k)(iii)(1) of the MRP and RFS. Under the proposed amendment, the rule referenced in the text, ''Rule 10.2(c),'' will be amended to reflect the correct corresponding rule number, which is ''Rule 10.2(e).'' Finally, the

Exchange proposes to amend PCX Rules 10.13(j)(6) and 10.13(k)(iii)(6) of the MRP and RFS. Under the proposed rule change, the rule referenced in the text, ''Rule 10.2(b),'' will be amended to reflect the correct corresponding rule number, which is ''Rule 10.2(d).''

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act,[3] in general, and section 6(b)(5) of the Act,[4] in particular, in that it will promote just and equitable principles of trade; facilitate transactions in securities, remove impediments to and perfect the mechanisms of a free and open market and a national market system; and protect investors and the public interest. The proposal is also consistent with section 6(b)(6) of the Act,[5] which requires that members and persons associated with members be appropriately disciplined for violations of Exchange rules.

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 on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(iii) of the Act [6] and subparagraph (f) Rule 19b–4 thereunder,[7] because it is concerned solely with the administration of the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to file number SR-PCX–2003–33 and should be submitted by August 13, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–18735 Filed 7–22–03; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3527]

State of Arizona

Pima County and the contiguous counties of Cochise, Graham, Maricopa, Pinal, Santa Cruz, and Yuma in the State of Arizona constitute a disaster area due to damages caused by the Aspen Fire that occurred beginning on June 17, 2003 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on September 15, 2003 and for economic injury until the close of business on April 16, 2004 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere:	5.625
Homeowners Without Credit Available Elsewhere:	2.812
Businesses with Credit Available Elsewhere:	5.906
Businesses and Non-Profit Organizations Without Credit Available Elsewhere:	2.953
Others (Including Non-Profit Organizations) with Credit Available Elsewhere:	5.500
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere:	2.953

The number assigned to this disaster for physical damage is 352705. For economic injury, the number is 9W4100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 16, 2003.

Hector V. Barreto,

Administrator.

[FR Doc. 03–18726 Filed 7–22–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3512, Amdt. 5]

State of West Virginia

In accordance with notices received from the Department of Homeland Security—Federal Emergency Management Agency, dated July 15 and July 16, 2003, the above numbered declaration is hereby amended to include Doddridge, Harrison, and Ritchie Counties in the State of West Virginia as a disaster area due to damages caused by severe storms, flooding, and landslides, and to establish the incident period for this disaster as beginning on June 11, 2003 and continuing through July 15, 2003.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78f(b)(6).

[6] 15 U.S.C 78s(3)(a).

[7] 17 CFR 240.19b–4.

[8] 17 CFR 200.30–3(a)(12).

location: Barbour, Calhoun, Gilmer, Lewis, Pleasants, Tyler, Upshur, Wirt, and Wood Counties in the State of West Virginia. All other counties contiguous to the above named primary counties have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is August 20, 2003, and for economic injury the deadline is March 22, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 17, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03–18725 Filed 7–22–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Guidelines on Goal Setting Under Procurement Preference Programs

AGENCY: Small Business Administration (SBA).

ACTION: Notice; request for comment.

SUMMARY: The U.S. Small Business Administration (SBA) must ensure that agencies establish goals for small business procurement that collectively, meet or exceed the governmentwide goals established by the Small Business Act in section 15 (g)(1) and (2). It is the policy of the Federal government to ensure that small businesses have maximum practicable opportunity to participate in Federal procurement. SBA is responsible for implementing the goaling program, assisting Federal agencies in establishing and obtaining the goals, and publishing quality information to the public. We are committed to making the methods, models, and processes that produce these results transparent and rigorous.

In summary, we are proposing these Goaling Guidelines to implement the recommendations made by GAO in August 2001 and as a continuation of our commitment to meeting our responsibility to implement the Small Business Preference Goaling Program in a user friendly manner. We welcome the opportunity for the Federal agencies and the public to comment on our proposed Goaling Guidelines.

SUPPLEMENTARY INFORMATION:

Background

SUMMARY: The Small Business Act establishes governmentwide goals and requires all Federal agencies with procurement authority to negotiate goals annually with SBA to ensure that small businesses receive maximum opportunity for participation in Federal contracts. Statutory governmentwide goals based on the value of all prime contract awards are:

- 23 percent for small business;
- 5 percent for small disadvantaged small business;
- 5 percent for women-owned small business;
- 3 percent for service-disabled, veteran-owned small business; and
- 3 percent for certified HUBZone small businesses (FY 2003).

(FY 1999—1 percent, FY 2000—1.5 percent, FY 2001—2 percent,

FY 2002—2.5 percent, FY 2003 and beyond—3 percent).

Subcontracting goals based on the value of subcontract awards are:

- 5 percent for small disadvantaged small business;
- 5 percent for women-owned small business; and
- 3 percent for service-disabled, veteran-owned small business.

SBA is required to obtain procurement data on achievements towards those goals and to publish an annual report to the President and the Congress that is also included in the *State of Small Business* report. As part of this mandate, SBA issues Goaling Guidelines that provide policy direction to the various Federal agencies pertaining to establishing annual goals, reporting procurement activity and submitting corrective action plans when goals are not met under the small business procurement preference programs. They provide procedures and timelines for the SBA to negotiate goals with each agency so that collectively the government-wide goals are established. The Goaling Guidelines, by which SBA manages the goaling program, must be updated periodically. Further, this document includes information on the statutory government-wide small business goals.

The current Goaling Guidelines were last revised in FY 2000 and are published on SBA's Web site at *www.sba.gov/GC/goals*.

In August 2001, the General Accounting Office (GAO) reviewed SBA's Goaling Program. (Small Business: More Transparency Needed in Prime Contract Goal Program. GAO–01–551. August 2001.) On pages 3 and 17, GAO recommended that the Goaling Guidelines be revised to ensure clarity, transparency and consistency. The recommendations require SBA to:

(1) Clearly communicate its goal-setting methodology,

(2) ensure that all agencies have an opportunity to negotiate goals for fiscal year 2002 and subsequent years,

(3) re-assess its rationale for making certain types of exclusions, and

(4) clarify its guidance on small business goals.

Each of the GAO recommendations is addressed in the proposed Goaling Guidelines. We believe the proposed revisions clarify SBA's goaling policies and provide transparency to the agencies and the public. SBA has posted the proposed Goaling Guidelines discussed in this Notice on its Web site at *www.sba.gov/GC/goals*. Click on the ''Proposed Goaling Guidelines'' button.

DATES: Comments of publication in the **Federal Register** must be received by 30 days from date of publication in the **Federal Register**.

ADDRESSES: Address comments to Linda G. Williams, Associate Administrator for Government Contracting, Small Business Administration, 409 Third St., SW., Suite 8100, Washington, DC 20416. Send e-mail to *goaling@sba.gov*. You may also submit comments electronically to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Pat Holden, National Goaling Program Manager, Small Business Administration, 409 Third St., SW., Suite 8000, Washington, DC 20416. Telephone (202) 205–6460 or by e-mail to *patricia.holden@sba.gov.*

Authority: Sec. 21, Pub. L. 507, 92 Stat. 1757; Sec 502(3), Pub. L. 100–656, 102 Stat. 3881; Sec. 7106(a)(2)(c), Pub. L. 103–355, 108 Stat. 3375; Sec. 221, Pub. L. 5–507.

Dated: July 17, 2003.

Fred C. Armendariz,

Associate Deputy Administrator, for Government Contracting and Business Development.

[FR Doc. 03–18724 Filed 7–22–03; 8:45 am]

BILLING CODE 8023–01–P

DEPARTMENT OF STATE

[Public Notice 4415]

Notice of Receipt of Application for Presidential Permit for the Construction of a New International Border Crossing

Notice is hereby given that the Department of State has received an application for a permit authorizing the construction, operation and maintenance of an international rail bridge in the Brownsville, Texas, area. The application has been filed by Cameron County, Texas, for a permit for a new single-track rail crossing 15 miles from the existing international rail bridge.

The Department's jurisdiction with respect to this application is based upon Executive Order 11423, dated August 16, 1968, as amended, and the International Bridge Act of 1972, (Pub. L. 92–343, 86 Stat. 731, approved September 26, 1972).

As required by E.O. 11423, the Department is circulating this application to concerned agencies for comment.

Interested persons may submit their views regarding this application in writing by August 1, 2003, to Mr. Dennis M. Linskey, Coordinator, U.S.-Mexico Border Affairs, Room 4258, Department of State, 2201 C St. NW., Washington, DC 20520.

The application and related documents made part of the record to be considered by the Department of State in connection with this application are available for review in the Office of Mexican Affairs during normal business hours throughout the comment period.

Any questions related to this notice may be addressed to Mr. Linskey at the above address or by fax at (202) 647–5752.

Dated: July 15, 2003.

Gregory Sprow,

Deputy Director, Office of Mexican Affairs, Department of State.

[FR Doc. 03–18722 Filed 7–22–03; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF STATE

[Public Notice 4416]

Notice of Receipt of Application for Presidential Permit for the Construction of a New International Border Crossing

Notice is hereby given that the Department of State has received an application from the County of El Paso, Texas for a Presidential Permit seeking authorization for the construction, operation and maintenance of an international bridge between Tornillo, Texas and Guadalupe, Chihuahua, Mexico. The proposed six lane bridge would be located approximately 650 feet from the existing Fabens-Caseta international crossing.

The Department's jurisdiction with respect to this application is based upon Executive Order 11423, dated August 16, 1968, as amended, and the International Bridge Act of 1972, (Pub. L. 92–343, 86 Stat. 731, approved September 26, 1972).

As required by E.O. 11423, the Department is circulating this application to concerned agencies for comment.

Interested persons may submit their views regarding this application in writing by August 30, 2003 to Mr. Dennis M. Linskey, Coordinator, U.S.-Mexico Border Affairs, Room 4258, Department of State, 2201 C St. NW., Washington, DC 20520.

The application and related documents made part of the record to be considered by the Department of State in connection with this application are available for review in the Office of Mexican Affairs during normal business hours throughout the comment period.

Any questions related to this notice may be addressed to Mr. Linskey at the above address or by fax at (202) 647–5752.

Dated: July 15, 2003.

Gregory Sprow,

Deputy Director, Office of Mexican Affair, Department of State.

[FR Doc. 03–18723 Filed 7–22–03; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Otsego County Regional Airport; Gaylord, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport from aeronautical use to non-aeronautical use and to authorize the sale of the airport property. The proposal consists of three parcels: Parcel A is 1.42 acres, Parcel B is 1.41 acres and Parcel C is 0.81 acres, totaling approximately 3.64 acres. Current use and present condition is abandoned dwelling and associated vacant land. The land was part of the original airport property and was not purchased with federal funds. There are no impacts to the airport by allowing the airport to dispose of the property.

The proposed land will be used to enhance the infrastructure surrounding the airport by developing commercial businesses. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before July 23, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Stephanie Swann, Program Manager, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO–613, Metro Airport Center, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174. Telephone Number: 734–229–2945/FAX Number: 734–229–2950.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in Gaylord, Otsego County, Michigan, and described as follows:

Parcel ''A'': A parcel of land in the NE ¼ of Section 8, T30N–R3W, Bagley Township, Otsego County, Michigan described as: Beginning at the NE corner of said Section 8; Thence South 00 degrees 16′27″ E, 208.00′ along the East line of said Section 8; thence North 89 degrees 58′40″ W 295.93′; thence North 00 degrees 54′32″ W, 208.03′; thence South 89 degrees 58′40″ E, 298.23′ along the North line of said Section 8 to the Point of Beginning, containing 1.42 acres, more or less, and being subject to an easement for highway purposes over and across the Northerly 33′ and Easterly 40′ thereof. Said parcel contains approximately 1.42 acres.

Parcel ''B'': A parcel of land in the NE ¼ of Section 8, T30N–R3W, Bagley Township, Otsego County, Michigan, described as: Commencing at the NE corner of said Section 8; thence South 00 degrees 16′27″ E, 208.00′ along the East line of said Section 8 to the Point of Beginning; thence continuing South 00 degrees 16′27″ E, 208.00′ along the East line of said Section 8; thence North 89 degrees 58′40″ W, 293.63′; thence North 00 degrees 54′32″ E, 208.03′; thence South 89 degrees 58′40″ E, 295.93′ to the Point of Beginning, containing 1.41 acres more or less, and being subject to an easement for highway purposes over and across the Easterly 40′ thereof. Said parcel contains approximately 1.41 acres.

Parcel ''C'': A parcel of land in the NE ¼ of Section 8, T30N–R3W, Bagley Township, Otsego County, Michigan, described as: Commencing at the NE corner of Said Section 8; thence South 00 degrees 16′27″ E, 416.00′ along the East line of said Section 8 to the Point

of Beginning; thence continuing South 00 degrees 16′27″ E, 120.00′ along the East line of said Section 8; thence North 89 degrees 58′40″ E, 293.29′; thence North 00 degrees 54′–32″ W, 120.02′; thence South 89 degrees 58′40″ E, 293.62′ to the Point of Beginning, containing 0.81 acres, more or less, and being subject to an easement for highway purposes over and across the Easterly 40′ thereof. Said parcel contains approximately 0.81 acres.

Issued in Romulus, Michigan on June 2, 2003.

Irene R. Porter,

Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. 03–18389 Filed 7–22–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Presque Isle County/Rogers City Airport, Rogers City, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport from aeronautical use to non-aeronautical use and to authorize the sale of the airport property. The proposal consists of one parcel totaling approximately 7.13 acres. Current use and present conditions is undeveloped vacant land. The land was originally sold to the County from Bradley Reality Company, December 27, 1935. There are no impacts to the airport by allowing the airport to dispose of the property. The proposed land will be used to provide a road right-of-way on the south property line that will enhance airport use, revenue and provide access for a future industrial park. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before August 22, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Stephanie Swann, Program Manager, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO–613, Metro Airport Center, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174. Telephone Number: 734–229–2945/FAX Number: 734–229–2950. Documents reflecting this FAA action may be reviewed at this same location or at Presque Isle County/Roger City Airport, Roger City, Michigan.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in Roger City, County of Presque Isle, Michigan, and described as follows:

A parcel of land in Rogers Township, Presque Isle county, State of Michigan, described as commencing at the Southwest corner of section 22, T35N, R5E; thence easterly 1,098.77 feet along the south section line of said section to the point of beginning: thence N 26°29′35″ W, along the east R.O.W. of US–23 76.79 feet; thence N 87°51′37″ E, 632.77 feet; thence N 02°06′33″ W, 30 feet; thence N 87°51′37″ E, 970.34 feet; thence N 87°51′25″ E, 1345.12′; thence S 01°05′26″ E, 100,00 feet; thence S 87°51′25″ W, 1343.29 feet; thence S 87°51′37″ W, 836.54 feet; thence S 02°06′33″ E, 50 feet; thence S 87°51′37'' W, 712.25 feet; thence N 26°29′35″ W, 54.91 feet to the point of beginning. Said parcel contains approximately 7.13 acres.

Issued in Romulus, Michigan on June 2, 2003.

Irene R. Porter,

Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. 03–18386 Filed 7–22–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Presque Isle County/Roger City Airport, Roger City, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport from aeronautical use to non-aeronautical use and to authorize the sale of the airport property. The proposal consists of one parcel totaling approximately 28.22 acres. Current use and present condition is undeveloped vacant land. The land was originally sold to the County from Bradley Realty Company, December 27, 1935. There are no impacts to the airport by allowing the airport to dispose of the property. The proposed land will be used to develop business in an area designated as a Renaissance Zone, as well as enhance the infrastructure surrounding the airport. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before August 22, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Stephanie Swann, Program Manager, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO–613, Metro Airport Center, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174. Telephone Number: 734–229–2945/FAX Number: 734–229–2950. Documents reflecting this FAA action may be reviewed at this same location or at Presque Isle County/Roger City Airport, Roger City, Michigan.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in Roger City, County of Presque Isle, Michigan, and described as follows:

Beginning at the center of section 22, T35N, R5E, Presque Isle County, Michigan, thence easterly along the EW¼ line of said section 480.02 feet; thence S 02°02′11″ E 150.00 feet; thence N 87°58′04″E 130.00; thence N 02°02′11″ W 150.00 feet to the EW¼ line of said section; thence easterly along said ¼ line 544.72 feet; thence S 01°05′24″ E, 1,133.16 feet; thence S 86°48′28″ W, 514.43 feet; thence N 02°09′09″ W, 302.22 feet; thence S 87°50′51″ W, 220.00 feet; thence S 02°09′09″ E, 318.12 feet; thence S 87°50′51″ W, 407.19 feet to the NS¼ line of said section; thence N 01°16′25″ W along said NS¼ line 1,164.72 feet to the point of beginning. Said parcel contains approximately 28.22 acres.

Dated: 1 Issued in Romulus, Michigan, on June 2, 2003.

Irene R. Porter,

Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. 03–18387 Filed 7–22–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Presque Isle County/Roger City Airport, Roger City, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport from aeronautical use to non-aeronautical use and to authorize the sale of the airport property. The proposal consists of one parcel totaling approximately 42.68 acres. Current use and present condition is undeveloped vacant land. The land was originally sold to the County from Bradley Reality Company, December 27, 1935. There are no impacts to the airport by allowing the airport to dispose of the property. However, an avigation easement will be imposed over this property to protect the airspace for future aeronautical development and any building constructed on this parcel will be limited to one-story. The proposed land will be used to enhance the infrastructure surrounding the airport by developing business is an area designated as a Renaissance Zone. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the Federal Register 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before August 22, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Stephanie Swann, Program Manager, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO–613, Metro Airport Center, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174. Telephone Number: 734–229–2945/FAX Number: 734–229–2950. Documents reflecting this FAA action may be reviewed at this same location or at Presque Isle County/Roger City Airport, Roger City, Michigan.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in Roger City, County of Presque Isle, Michigan, and described as follows:

A parcel commencing at the southwest corner of section 22, T35N R5S Presque Isle County, Michigan, thence along the south line of said section 1,016.28 feet to the point of beginning, thence W 26° 29′35″ W 473.43 feet; thence north 87° 15′37″ E, 349.90 feet; thence S 02° 08′32″ E, 200.00 feet; thence N 87° 51′37″ EM 177.00 feet; thence S 02° 08′32″ E, 166.55 feet; thence S 87° 51′37″ W, 280.29 feet, thence S 26° 29′35″ E, 76.79 feet to the south line of said section; thence along said south line 80.97 feet to the point of beginning, also commencing at the S¼ corner said section; thence northerly along the NS¼ line of said section 100.11 feet, to the point of beginning; thence S 87° 51′37″ W, 971.55 feet, thence N 02° 08′32′ W, 744.22 feet; thence N 87° 51′37′ E, 2078.05 feet, thence S 01° 05′26″ W, 300 feet; thence N 87° 51′03″ E, 250 feet to the E ⅛ line of said section; thence southerly along said ⅛ line 444.22 feet, thence S 87° 51′25″ W, 1,343.91 feet to the point of beginning. Said parcel contains 42.68 acres.

Issued in Romulus, Michigan, on June 2, 2003.

Irene R. Porter,

Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. 03–18388 Filed 7–22–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–21000]

KBUS Holdings, LLC—Acquisition of Assets and Business Operations—All West Coachlines, Inc., *et al.*

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice tentatively approving finance transaction.

SUMMARY: KBUS Holdings, LLC (KBUS or Applicant), a noncarrier, has filed an application under 49 U.S.C. 14303 to purchase and merge the assets and business operations of: All West Coachlines, Inc. (MC–212056); American Charters & Tours, Inc. (MC–153814); Americoach Tours, Ltd. (MC–212649); Antelope Valley Bus, Inc. (Antelope) (MC–125057); Airport Bus of Bakersfield, Inc., a subsidiary of Antelope (MC–163191); Arrow Stage Lines, Inc. (MC–029592); Bayou City Coaches, Inc. (MC–245246); Blackhawk, Central City Ace Express, Inc. (MC–273611); Browder Tours, Inc. (MC–236290); California Charters, Inc. (MC–241211); Desert Stage Lines, owned by Antelope (MC–140919); El Expreso, Inc. (MC–244195); Express Shuttle, Inc. (MC–254884); Franciscan Lines, Inc. (MC–425205); Fun Time Tours, Inc. (MC–176329); Goodall's Charter Bus Service, Inc. (MC–148870); Grosvenor Bus Lines, Inc. (MC–157317); Gulf Coast Transportation Company (MC–201397); Kerrville Bus Company, Inc. (MC–27530), and 3 subsidiaries, Community Rentals Company (MC–257338), Sunset Tours & Travel, Inc. (MC–241422), and William Timothy Vaught d/b/a Vaught Bus Leasing Company (MC–209574); K-T Contract Services, Inc. (MC–218583); PCSTC, Inc. (MC–184852); Powder River Transportation Services, Inc. (MC–161531); Royal West Tours & Cruises, Inc. (MC–239135); Stardust Tours-Memphis, Inc. (MC–318341); Texas Bus Lines, Inc. (MC–037640); Travel Impressions, LLC (MC–340826); Valen Transportation, Inc. (MC–212398); and Worthen Van Service, Inc. (MC–142573) (collectively, Sellers). Persons wishing to oppose this application must follow the rules at 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by September 8, 2003. Applicant may file a reply by September 22, 2003. If no comments are filed by September 8, 2003, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–21000 to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, send one copy of any comments to applicant's representative: Stephen Flott, Flott & Co. PC, P.O. Box 17655, Arlington, VA 22216–7655.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: KBUS is a private limited liability company organized under the laws of the state of Delaware by Kohlberg & Company, LLC (Kohlberg), a noncarrier. Kohlberg is a private equity firm specializing in middle market investments. KBUS,

which was specifically created to undertake this transaction, entered into an agreement with the Sellers to buy the assets, including vehicles, and business operations of the Sellers and to take over vehicle leases. KBUS is undertaking this transaction under Kohlberg Fund IV, which closed in 2001 with a total capital of $576 million.

KBUS is a noncarrier and will remain a noncarrier after this transaction. Applicant plans to consolidate the assets and business operations of the Sellers into two entities: A leasing company and CUSA, LLC (CUSA). The leasing company will acquire the vehicles and CUSA will conduct carrier operations. CUSA has applied for twelve operating authorities from the Federal Motor Carrier Safety Administration to operate as a motor contract and common carrier of passengers in interstate commerce, in order to accommodate the twenty-four operating names under which CUSA intends to carry on business. The Federal operating authorities currently held by each of the Sellers will, upon consummation, be surrendered.

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction found to be consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

Applicant has submitted information, as required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b). Applicant states that the proposed transaction will not reduce competitive options, adversely impact fixed charges, or adversely impact the interests of employees of companies whose assets and businesses are being acquired. It asserts that granting the application will allow CUSA to take advantage of economies of scale and substantial benefits offered by Applicant, including interest cost savings and reduced operating costs. Additional information, including a copy of the application, may be obtained from Applicant's representative.

On the basis of the application, the Board finds that the proposed transaction is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

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

It is ordered:

1. The proposed finance transaction is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed vacated.

3. This decision will be effective on September 8, 2003, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 400 7th Street, SW., Room 8214, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, SW., Washington, DC 20590.

Decided: July 17, 2003.

By the Board, Chairman Nober.

Vernon A. Williams,

Secretary.

[FR Doc. 03–18745 Filed 7–22–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collections; Comments Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on an information collection that is due for extension approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning Treasury International Capital Form S, Purchases and Sales of Long-term Securities by Foreigners.

DATES: Written comments should be received on or before September 22, 2003 to be assurred of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 4410–1440NYA, 1500 Pennsylvania Avenue NW., Washington, DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by e-mail *(dwight.wolkow@do.treas.gov)*, FAX (202–622–1207) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Forms Web page, *http://www.treas.gov/tic/forms.html.* Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Title: Treasury International Capital Form S, Purchases and Sales of Long-term Securities by Foreigners.

OMB Control Number: 1505–0001.

Abstract: Form S is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128), and is designed to collect timely information on international portfolio capital movements. Form S is a monthly report used to cover transactions in long-term marketable securities undertaken DIRECTLY with foreigners by banks, other depository institutions, brokers, dealers, underwriting groups and other individuals and institutions. This information is necessary for compiling the U.S. balance of payments accounts, for calculating the U.S. international investment position, and for formulating U.S. international financial and monetary policies.

Current Actions: No changes to the current forms and instructions are being proposed.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Form S (1505–0001).

Estimated Number of Respondents: 250.

Estimated Average Time Per Respondent: about 5.6 hours per respondent per filing.

Estimated Total Annual Burden Hours: 16,800 hours, based on 12 reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Form S is necessary for the proper performance of the functions of the Office, including whether the

information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 03–18639 Filed 7–22–03; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of International Affairs; Survey of Foreign Ownership of U.S. Securities as of June 30, 2003

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Department of the Treasury is informing the public that it is conducting a mandatory survey of foreign ownership of U.S. securities as of June 30, 2003. This Notice constitutes legal notification to all United States persons (defined below) who meet the reporting requirements set forth in this Notice that they must respond to, and comply with, this survey. Additional copies of the reporting form SHLA and instructions may be printed from the Internet at: *http://www.treas.gov/tic/forms.html*

Definition: A U.S. person is any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a state, provincial, or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency), who resides in the United States or is subject to the jurisdiction of the United States.

Who Must Report: The following U.S. persons must report on this survey: It is expected that reporting will be required only from those who filed last year Form SHLA entitled Foreign-Residents' Holdings of U.S. Securities, Including Selected Money Market Instruments as of June 28, 2002. The panel for this survey is based upon the level of foreign holdings of U.S. securities reported on the March 2000 benchmark survey of foreign holdings of U.S. securities and will consist of the largest reporters on that survey. Entities required to report will be contacted individually by the Federal Reserve Bank of New York. Entities not contacted by the Federal Reserve Bank of New York have no reporting responsibilities.

What to Report: This report will collect information on foreign resident holdings of U.S. securities, including equities, short-term debt securities (including selected money market instruments), and long-term debt securities.

How to Report: Copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, can be obtained by contacting the survey staff of the Federal Reserve Bank of New York at (212) 720–6300, e-mail: *SHL.help@ny.frb.org.* The mailing address is: Federal Reserve Bank of New York, Statistics Function, 4th Floor, 33 Liberty Street, New York, NY 10045–0001.

When to Report: Data should be submitted to the Federal Reserve Bank of New York, acting as fiscal agent for the Department of the Treasury, by August 29, 2003.

Dated: July 11, 2003.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Reporting Systems.

[FR Doc. 03–18638 Filed 7–22–03; 8:45 am]

BILLING CODE 4810–25–P

Federal Register

Wednesday,
July 23, 2003

Part II

Department of Homeland Security

Bureau of Customs and Border Protection

19 CFR Parts 4, 103, 113 et al.
Required Advance Electronic Presentation of Cargo Information; Proposed Rule

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Parts 4, 103, 113, 122, 123 and 192

RIN 1515–AD33

Required Advance Electronic Presentation of Cargo Information

AGENCY: Customs and Border Protection, Homeland Security.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to provide that Customs and Border Protection (CBP) must receive, by way of a CBP-approved electronic data interchange system, information pertaining to cargo before the cargo is either brought into or sent from the United States by any mode of commercial transportation (sea, air, rail or truck). The cargo information required is that which is reasonably necessary to enable high-risk shipments to be identified so as to prevent smuggling and ensure cargo safety and security pursuant to the laws enforced and administered by CBP. The proposed regulations are specifically intended to implement the provisions of section 343(a) of the Trade Act of 2002, as amended by the Maritime Transportation Security Act of 2002.

DATES: Written comments must be received on or before August 22, 2003.

ADDRESSES: Written comments are to be addressed to the Bureau of Customs and Border Protection (CBP), Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, NW., Washington, DC 20229. Submitted comments may be inspected at CBP, 799 9th Street, NW., Washington, DC during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

FOR FURTHER INFORMATION CONTACT:

Legal matters: Glen E. Vereb, Office of Regulations and Rulings, (202) 572–8724;

Trade compliance issues:

Inbound vessel cargo: Kimberly Nott, Field Operations, 202–927–0042;

Inbound air cargo: David M. King, Field Operations, 202–927–1133;

Inbound truck cargo: Enrique Tamayo, Field Operations, 202–927–3112;

Inbound rail cargo: Juan Cancio-Bello, Field Operations, 202–927–3459;

Outbound cargo, all modes: Erika Unangst, Field Operations, 202–927–0284;

For economic impact issues: Daniel J. Norman, Field Operations, 202–927–4305.

SUPPLEMENTARY INFORMATION:

Background

Section 343(a) of the Trade Act of 2002 (Public Law 107–210, 116 Stat. 933, enacted on August 6, 2002), as amended by section 108 of the Maritime Transportation Security Act of 2002 (Public Law 107–295, 116 Stat. 2064, enacted on November 25, 2002), and codified at 19 U.S.C. 2071 note, requires that the Secretary endeavor to promulgate final regulations not later than October 1, 2003, that provide for the mandatory collection of electronic cargo information by the Customs Service (now part of the Bureau of Customs and Border Protection (CBP)), either prior to the arrival of the cargo in the United States or its departure from the United States by any mode of commercial transportation (sea, air, rail or truck). Under section 343(a), as amended, the information required must consist of that information about the cargo which is determined to be reasonably necessary to enable CBP to identify high-risk shipments so as to prevent smuggling and ensure cargo safety and security pursuant to the laws that are enforced and administered by CBP.

Consequently, for the purposes set forth in section 343(a), as amended, and within the parameters prescribed in the statute, as highlighted below, this document proposes to amend the Customs Regulations in order to require the advance electronic transmission of information pertaining to cargo prior to its being brought into, or sent from, the United States.

CBP Authority for Issuance of Proposed Rule

When the Trade Act of 2002 was enacted (Public Law 107–210; August 6, 2002), CBP was part of the Department of the Treasury as the Customs Service. Thereafter, the Homeland Security Act of 2002 was enacted (Public Law 107–296; November 25, 2002), which created the Department of Homeland Security (DHS). Section 403 of the Homeland Security Act (the Act) transferred to the newly created Department the functions, personnel, assets, and liabilities of the Customs Service, including the functions of the Secretary of the Treasury relating thereto. Customs, later renamed as CBP, thereby became a component of DHS. Furthermore, the Department of the Treasury recently issued an order (Treasury Order 100–16, dated May 15, 2003) delegating to DHS certain Customs revenue functions that were otherwise retained by the Treasury Department under sections 412 and 415 of the Act. In accordance with the Homeland Security Act and this transfer and delegation of functions, certain matters, such as this proposed rule which is designed to ensure cargo safety and security rather than revenue assessment, now fall solely within the jurisdiction of DHS.

Therefore, inasmuch as CBP is an integral component of DHS, and in view of the subject functions transferred/delegated in this regard from Treasury to DHS, this proposed regulation is being issued by CBP with the approval of DHS. Nevertheless, CBP has also coordinated the development of this proposed rule jointly with the Treasury Department.

Statutory Factors Governing Development of Regulations

Under section 343(a), as amended, the requirement to provide particular cargo information to CBP is generally to be imposed upon the party likely to have direct knowledge of the required information. However, where doing so is not practicable, CBP in the proposed regulations must take into account how the party on whom the requirement is imposed acquires the necessary information under ordinary commercial practices, and whether and how this party is able to verify the information it has acquired. Where the party is not reasonably able to verify the information, the proposed regulations must allow the party to submit the information on the basis of what it reasonably believes to be true.

Furthermore, in developing the regulations, CBP, as required, has taken into consideration the remaining parameters set forth in the statute, including:

- The existence of competitive relationships among parties upon which the information collection requirements are imposed;
- Differences among cargo carriers that arise from varying modes of transportation, different commercial practices and operational characteristics, and the technological capacity to collect and transmit information electronically;
- The need for interim requirements to reflect the technology that is available at the time of promulgation of the regulations for purposes of the parties transmitting, and CBP receiving and

analyzing, electronic information in a timely fashion;

• That the use of information collected pursuant to these regulations is to be only for ensuring cargo safety and security and preventing smuggling and not for determining merchandise entry or for any other commercial enforcement purposes;

• The protection of the privacy of business proprietary and any other confidential cargo information that CBP receives under these regulations, with the exception that certain manifest information is required to be made available for public disclosure under 19 U.S.C. 1431(c);

• Balancing the likely impact on the flow of commerce with the impact on cargo safety and security in determining the timing for transmittal of required information;

• Where practicable, avoiding requirements in the regulations that are redundant with one another or with requirements under other provisions of law; and

• The need, where appropriate, for different transition periods for different classes of affected parties to comply with the electronic filing requirements in the regulations.

Additionally, the statute requires that a broad range of parties, including importers, exporters, carriers, customs brokers, and freight forwarders, among other interested parties, likely to be affected by the regulations, be consulted and their comments obtained and evaluated as a prelude to the development and promulgation of the regulations. In furtherance of this, by a notice published in the **Federal Register** (67 FR 70706) on November 26, 2002, the United States Customs Service, which is now merged into CBP, announced a series of public meetings in accordance with section 343(a) to assist in the formulation of these proposed regulations. The meetings were also announced on the Customs Web site.

Separate meetings were scheduled and held to address specific issues related to the advance electronic presentation of information prior to the arrival or departure of air cargo (January 14, 2003), truck cargo (January 16, 2003), rail cargo (January 21, 2003) and sea cargo (January 23, 2003). ''Strawman'' proposals were offered by Customs at the meetings and were made available on the Customs Web site. In the meetings, members of the importing and exporting community made many significant observations, insights, and suggestions as to what CBP should consider and how CBP should proceed in composing the proposed regulations. Also, at the meetings and on the Customs Web site, suggestions and comments were solicited from the public. The CBP received numerous submissions via e-mail which similarly provided valuable insights and recommendations regarding the development of the proposed rule.

Moreover, an extensive number of meetings were held with workgroups of the subcommittee on advance cargo information requirements of the Treasury Advisory Committee on the Commercial Operations of the U.S. Customs Service (COAC), which greatly assisted CBP in its development of these proposed regulations. Indeed, much of the input and recommendations from those members of the trade who participated in the public meetings, the various workgroups of the COAC subcommittee, as well as the views expressed in the many e-mail submissions in this matter, are reflected in these proposed regulations.

In this regard, what follows is a review of, and CBP's response to, the most salient issues and recommendations that were presented pursuant to this consultation process, along with an overview of the proposed programs for advance information filing for cargo destined to, or departing from, the United States by vessel, air, rail or truck.

Public Comments; General

Costs of Automation; Economic Analysis

Comment

Any implementing regulations compelling the advance presentation to CBP of electronic information for cargo destined to the United States, under section 343(a), as amended, would impose substantial automation costs on the carrier trade. The CBP should conduct an economic impact analysis to this effect.

CBP Response

As is set forth below, there are electronic data transmission systems already in place in many of the modes. When coupled with the fact that much of the trade already uses these systems, it does not appear that requiring advance electronic cargo information would impose substantial costs on the trade.

Nevertheless, Customs and Border Protection (CBP) has conducted an economic analysis to determine whether the proposed rule is an ''economically significant regulatory action'' under Executive Order 12866 and whether the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) would apply to this rulemaking. It has been determined, as a result of the *initial* analysis conducted, that this proposed rule would not have a significant economic impact upon a substantial number of small entities under the RFA. This economic analysis is attached as an Appendix to this document. For the reasons set forth in the analysis, the agency does not make a certification at this time with regard to the regulatory requirements of 5 U.S.C. 603 and 604. Comments are specifically requested as to the impact of the proposed rule on small entities.

This rule is a ''significant regulatory action'' under Executive Order (E.O.) 12866 and has been reviewed by the Office of Management and Budget in accordance with that E.O. However, it is our preliminary determination that the proposed rule would not result in an ''economically significant regulatory action'' under E.O. 12866, as regards the impact on the national economy.

Protection of Confidential Information Presented to CBP

Comment

Cargo manifest data collected by CBP under section 343(a), as amended, should be kept confidential by the agency and not be released to the public.

CBP Response

Section 343(a)(3)(G), as amended, expressly requires that CBP in its implementing regulations protect the privacy of any business proprietary and any other confidential cargo information that is furnished to CBP in accordance with section 343(a), except for any manifest information that is collected pursuant to section 431, Tariff Act of 1930, as amended (19 U.S.C. 1431), and required to be available for public disclosure pursuant to section 1431(c). It is emphasized in this connection that the application of section 1431(c) has been effectively limited only to vessel cargo manifest information (§ 103.31, Customs Regulations (19 CFR 103.31)).

As thus mandated by the law, CBP intends to accord full protection to the privacy of air, rail, or truck cargo information that is collected under section 343(a), as amended; to this effect, CBP has included in this document a proposed amendment to part 103, Customs Regulations (19 CFR part 103) (*see* proposed § 103.31a)).

Information Technology; Interface With Other Government Agencies

Comment

The regulations should avoid redundancy requirements with those of

other Federal agencies. There should be one filing procedure for all Federal agencies (*e.g.*, the Food and Drug Administration (FDA); and the Animal and Plant Health Inspection Service (APHIS)). All data elements to be required by Federal agencies, both within and without the Department of Homeland Security (DHS), for traffic entering the United States should be coordinated through a single entity, preferably CBP. Toward this end, the notification requirements of other Federal agencies should be integrated into the CBP regulations for section 343(a), as amended.

CBP Response

To the extent feasible, CBP will continue to explore ways and methods to harmonize and synchronize information collection requirements among the several agencies involved, so that the cargo information CBP collects under section 343(a), as amended, may be provided by electronic means to other Federal offices. Indeed, efforts in this regard are already underway in connection with the development of the Automated Commercial Environment (ACE) and the International Trade Data System (ITDS) (a single system that will fully integrate all requisite information about goods entering and exiting the United States). These discussions may ultimately lead to a sole portal (''single window'') for receiving all inward cargo information that may be required to assist other agencies in administering and enforcing statutes enacted to further combat threats to the safety and security of the nation.

However, at present, CBP is of necessity operating under severe time constraints in endeavoring to comply with the statutory deadline for promulgating final regulations under section 343(a) as a national security imperative. Given the limited time available, the construction of a fully-integrated, comprehensive multi-agency electronic data interchange system does not, at this moment, appear to be a practicable or feasible concept, especially in view of the multitude of technological modifications and substantial reprogramming that would be needed for existing systems in order to effectuate this; and withholding the implementation of the final regulations pending the completion of an undertaking of such magnitude would quite clearly be inconsistent with the urgency of the legislation.

The CBP notes that other agencies, such as FDA, have different statutory requirements regarding advance notice of imports. The CBP further notes that, due to these different statutory requirements, these agencies may have different information needs to accomplish their different statutory mandates. For example, some of the information requirements in section 307 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 to address food safety and security assessments, are different from those required by CBP. In some instances, the time needed by other agencies to receive, review, and respond to this information to accomplish their statutory mission may be different from the time required by CBP to assess and respond to information needed to achieve CBP's statutory mission. To the extent possible, CBP will work with other interested agencies to share the information collected under section 343(a), as amended, with other Federal agencies.

Postal Shipments

Comment

The advance cargo information provisions for incoming cargo should apply to air/vessel shipments through the United States Postal Service (USPS).

CBP Response

As prescribed in section 343(a)(3)(K), as amended, CBP has the authority, in consultation with the Postmaster General, to require advance cargo information for shipments by the USPS. The CBP still has this issue under consideration. Should a determination be made to extend the advance electronic cargo information mandate to USPS shipments, such postal shipments would be the subject of a separate notice of proposed rulemaking.

Overview; Electronic Filing; Shipper on Master/House Bills

Pursuant to section 343(a)(1), as amended, cargo information for required inbound and outbound shipments must be transmitted to CBP by means of a CBP-approved electronic data interchange system. In this document, CBP is proposing that cargo information be transmitted or presented through existing CBP-approved data systems. As is further elucidated *infra,* for each incoming mode and for all outbound modes, these existing data systems are as follows:

Outbound, all modes: Automated Export System (AES);

Inbound vessels: Vessel Automated Manifest System (Vessel AMS);

Inbound aircraft: Air Automated Manifest System (Air AMS);

Inbound rail: Rail Automated Manifest System (Rail AMS);

Inbound truck: Free And Secure Trade System (FAST); Pre-Arrival Processing System (PAPS) (which employs the Automated Broker Interface (ABI)); Border Release Advanced Screening and Selectivity program (BRASS, modified as appropriate); and Customs Automated Forms Entry System (CAFES) or ABI in-bond reporting.

In this latter regard, and to the additional extent that future approved automated data systems are to be implemented, CBP, either generally or on a port-by-port basis, as applicable, will give advance notice of the effective date of implementation of the specific system at particular port(s) of arrival by publishing a notice to this effect in the **Federal Register**.

Master Bills/House Bills

Generally speaking, a master bill of lading refers to the bill of lading that is generated by the incoming carrier covering a consolidated shipment. A consolidated shipment would consist of a number of separate shipments that have been received and consolidated into one shipment by a party such as a freight forwarder or a Non Vessel Operating Common Carrier (NVOCC) for delivery as a single shipment to the incoming carrier. The consolidated shipment, as noted, would be covered under the incoming carrier's master bill; and this master bill could reflect the name of the freight forwarder, the NVOCC or other such party as being the shipper (of the consolidated shipment). However, each of the shipments thus consolidated would be covered by what is referred to as a house bill. The house bill for each individual shipment in the consolidated shipment would reference the name of the actual shipper (which would be the actual foreign owner and exporter of the cargo to the United States). As will be seen from the data elements as proposed in this rulemaking, it is this latter information as to the identity of the actual shipper from the relevant house bill that CBP is seeking for targeting purposes.

Public Comments; Vessel Cargo Destined to the United States

Summary of Principal Comments

Most of the comments received concerning the advance information reporting requirements for incoming vessel cargo evidenced an intent to revisit the ''24-hour rule'' that was issued and became effective last year (T.D. 02–62, 67 FR 66318; October 31, 2002).

In brief, it was principally requested that advance cargo information filing by

Non Vessel Operating Common Carriers (NVOCCs) be eliminated, due to a number of operational problems experienced by incoming carriers, that have resulted from limitations said to be inherent in the Vessel Automated Manifest System (AMS) when NVOCCs, as opposed to the vessel carriers, transmit shipment information to CBP; at the same time, though, it was advocated that importers should be permitted, at their discretion, to file through AMS certain information that would likely best be known to them as to the identification and nature of the incoming cargo. Also, it was asked that definitions be added to the regulations regarding those data elements pertaining to shipper and consignee information. In addition, it was asked that Department of Defense-contracted conveyances be exempted from the 24-hour rule.

CBP Response

In sum, CBP stands by the 24-hour rule for incoming vessel cargo and does not contemplate any major change to it under this rulemaking, with one exception: to introduce the mandate that vessel carriers file their advance cargo manifest information with CBP electronically.

As explained in the final rule (67 FR at 66319), the 24-hour pre-lading requirement for incoming vessel cargo, especially containerized vessel cargo, is tied inextricably to the Container-Security Initiative (CSI). CSI was developed to secure an indispensable, but vulnerable, link in the chain of global trade: containerized shipping. Annually, more than 6 million cargo containers are off loaded at U.S. seaports. A core element of CSI is to pre-screen such containers at the port of departure *before* they are shipped. To enable this pre-screening to be done fully and effectively, it is essential that the required advance cargo declaration information be presented to CBP at least 24 hours prior to lading the cargo aboard the vessel at the foreign port.

With the implementation of CSI and the 24-hour rule, CBP has been able to identify shipments that have posed potential threats; and security-related seizures of problematic shipments have occurred. In short, these programs—CSI coupled with the 24-hour rule—have become a critical bulwark against threats to the safety and security of United States seaports, trade, industry, and the country.

Non Vessel Operating Common Carriers (NVOCCs)

In consideration of the competitive relationships that exist in the international freight forwarding field, those NVOCCs that seek to file required business proprietary and other confidential cargo information for their incoming shipments directly with CBP should be allowed to do so, rather than having to furnish such information to vessel carriers for electronic presentation to CBP. The CBP is confident that operational issues that have arisen in relation to the implementation of the 24-hour rule will over time be satisfactorily addressed; toward this end, CBP will continue to be available to assist the trade in resolving such issues.

There is no consensus in the trade community as to whether importers should provide sea cargo data to CBP. When this split is coupled with the current design and functionality of the AMS system, CBP finds that allowing importers, at their discretion, to participate in advance electronic filing through the system would at this time be neither advisable nor practicable.

Government Vessels

Government vessels falling within the purview of § 4.5(a), Customs Regulations (19 CFR 4.5(a)), are exempt from the requirement to make entry, and, as such, they would already be exempt from having to comply with advance cargo declaration reporting under the 24-hour rule (*see* 19 CFR 4.7(a), (b)(2)). For purposes of enlarging upon those vessels that would be subject to such exemptions, it is noted that by a separate, interim rule, CBP will expand the definition of government vessels.

Data Elements—Shipper, Consignee; Date and Time of Departure

With reference to the identity of the shipper, at the master bill level, for consolidated shipments, the identity of the Non Vessel Operating Common Carrier (NVOCC), freight forwarder, container station or other carrier would be sufficient. For non-consolidated shipments, and for each house bill in a consolidated shipment, the identity of the actual shipper (who is both the owner and the exporter) of the cargo from the foreign country would be needed. To elaborate, the foreign owner of the goods just before they are delivered for export, and who initially consigns and ships them from the foreign country, is the party who ultimately decides that the goods are to be disposed of in another country, such as the United States. The foreign shipper and owner of the goods is, therefore, the exporter, because this is the party initially responsible for causing the export. Section 4.7a(c)(4)(viii), Customs Regulations (19 CFR 4.7a(c)(4)(viii)), would be revised to include the additional meaning of this data element.

In addition, with reference to the identity of the consignee, for consolidated shipments, at the master bill level, the identity of the NVOCC, freight forwarder, container station or other carrier would be sufficient. However, parties identified as ''consolidators,'' even though they may also be NVOCCs, may not participate in Vessel AMS.

For non-consolidated shipments, and for each house bill in a consolidated shipment, the consignee would be the party to whom the cargo would be delivered in the United States, with the exception of ''FROB'' (Foreign Cargo Remaining On Board). If the name of the consignee, as described, is available, the carrier must disclose this information. However, where cargo is shipped ''to the order of [a named party],'' which is a common business practice, the carrier must report this named ''to order'' party as the consignee in the advance cargo information submission; and, if there is any other commercial party listed in the bill of lading for delivery or contact purposes, the carrier must also report this other commercial party's identity and contact information (address/phone number) in the ''Notify Party'' field of the advance electronic data transmission to CBP, to the extent that the CBP-approved electronic data interchange system is capable of receiving this data. Section 4.7a(c)(4)(ix) would be revised to include the added meaning of this data element.

Also, § 4.7a(c)(4) would further be amended to require the date and time of the departure of the vessel from foreign, as reflected in the vessel log.

Overview; Vessel Cargo Destined to the United States

Electronic Filing Mandate

Under this proposed rule, in principal part, the 24-hour rule would be amended to provide that vessel carriers must present their cargo declarations to CBP by means of a CBP-approved electronic data interchange system, 24 hours before lading the cargo aboard the vessel in the foreign port.

Transition/Timetable for Compliance With Electronic Filing Mandate

Within 90 days of the publication of this advance electronic cargo information requirement as a final rule in the **Federal Register**, all ocean carriers, and NVOCCs choosing to participate, must be automated on the Vessel AMS system at all ports of entry

in the United States where their cargo will initially arrive.

Comments; Air Cargo Destined to the United States

Time Frame for Presenting Advance Cargo Information to CBP

Comment

The time frames for presenting electronic cargo information to CBP for air cargo prior to the cargo's arrival in the United States that were set forth in the ''strawman'' proposal (12 hours in advance of foreign lading generally, and 8 hours in advance of foreign lading in the case of express courier shipments) were excessively long. Such lengthy advance time frames would destroy ''just-in-time'' delivery systems. Instead, it was chiefly recommended that the time frame be one hour prior to arrival in the United States; other commenters, however, thought that the time frame for transmission should be determined on a country-by-country basis, or, in the alternative, at the time of ''wheels-up'' on the aircraft.

Also, it was asserted that the advance notice time frame should be consistent within each mode of transport; alternatively, it was suggested that the advance filing time frame for charter flights should be shorter than for other flights, and that there should be special procedures for time-sensitive cargoes (short haul).

CBP Response

The time frames in the ''strawman'' proposal were put forth only for purposes of stimulating a dialogue with the importing trade regarding the development of an appropriate time frame for the electronic submission of information for inbound air cargo. This issue is central to the implementation of section 343(a) of the Trade Act of 2002, as amended.

Accordingly, after considering the feedback received from the importing trade in response to the ''strawman,'' CBP is proposing in this rulemaking that information for inbound air cargo be electronically presented no later than the time of departure of the aircraft for the United States (no later than the time that wheels are up on the aircraft, and it is en route directly to the United States), in the case of aircraft departing for the United States from any foreign port or place in North America, which includes locations in Mexico, Central America, South America (from north of the Equator only), the Caribbean, and Bermuda. For aircraft departing for the United States from any other foreign area, information for the inbound air cargo would be required to be electronically presented to CBP no later than 4 hours prior to the arrival of the aircraft at the first port of arrival in the United States.

At present, CBP believes that these time frames (no later than ''wheels-up'' or 4 hours prior to arrival, as applicable) should enable CBP to properly conduct a risk assessment for incoming air cargo and, if found advisable, to make preparations to hold the cargo for further information or for examination, as required to ensure cargo safety and security under section 343(a), as amended. At the same time, CBP has determined that these time frames should realistically accommodate the concerns of the trade, and should not disrupt the flow of commerce. Indeed, an important reason for the different time frames proposed is the need to obviate disruptions in the flow of commerce; given this consideration, the effect on ''just-in-time'' (''JIT'') delivery systems should be nonexistent.

The time frames proposed for submitting electronic information to CBP for inbound air cargo would thus be consistent for all air cargo shipments regardless of the type of operator or the nature of the cargo; the time frames would differ based only upon the foreign area from which the incoming air carrier was departing for the United States.

Parties Required/Eligible To Participate in Advance Cargo Information Filing

Comment

It was asked whether freight forwarders to the United States would be required to participate in advance cargo information filing. In the alternative, it was requested that advance electronic shipment information be supplied to CBP by the foreign shipper (the exporter to the United States) or by the U.S. importer. In addition, it was recommended that freight deconsolidators (Container Freight Stations) be allowed to transmit in-bond information electronically to CBP at the house air waybill level. In this overall context, it was further mentioned that CBP would need to specify what type of bond would be required for any non-carrier commercial participants in advance electronic cargo information filing under section 343(a), as amended. Also, two commenters urged that cargo information be supplied to CBP by the foreign country (government).

It was also generally stated that some parties in the air environment would simply be unable to comply with the advance electronic cargo information requirements. In any case, it was asserted that any liability for the accuracy of the information that a party presented to CBP should fall upon the entity that supplied the information to the presenting party.

CBP Response

Inbound air carriers that are otherwise required to make entry under § 122.41, Customs Regulations (19 CFR 122.41), would be required to file advance cargo information electronically with CBP. The existing automated air cargo manifest system (the Air Automated Manifest System (Air AMS)) was originally designed and structured to receive electronic data directly from the incoming air carrier.

Nevertheless, in addition to the incoming air carrier's mandatory participation in presenting advance electronic air cargo information, CBP has concluded that one of a number of other parties would be able to voluntarily present to CBP a part of the electronic information required for the inbound air cargo. These parties could consist of one of the following:

(1) An ABI (Automated Broker Interface) filer as identified by its ABI filer code (this entity could be either the importer of the cargo or the importer's authorized Customs broker);

(2) A Container Freight Station/deconsolidator as identified by its FIRMS (Facilities Information and Resources Management System) code;

(3) An Express Consignment Carrier Facility likewise identified by its FIRMS code; or

(4) Any air carrier as identified by its IATA (International Air Transport Authority) code, that arranged to have the incoming air carrier transport cargo to the United States.

Unlike Vessel AMS, as explained above, and Rail AMS, as discussed below, Air AMS has the existing design capabilities and functionality to, and in fact already does, accept information from parties other than the importing carrier for inward cargo shipments. The CBP expects to make this capability to supply data available to a wider group of trade members, as appropriate, and to make any systems modifications necessary to accommodate possible variations in the order in which data might be received.

Hence, along with the incoming air carrier for whom participation in Air AMS is compulsory, any one of the foregoing parties could elect to supply certain data for air cargo to CBP, provided that the party established the communication protocol required by CBP for properly presenting electronic data through the system, and provided further that the party, other than an

importer or broker, was in possession of a Customs international carrier bond containing all the necessary provisions of 19 CFR 113.64.

However, in the case of cargo shipments transported under a consolidated master air waybill, only one party could supply information for all such cargo so shipped.

It is observed that the importer or its authorized agent would be the party in the United States most likely to have direct knowledge as to particular information about the nature and destination of the cargo. Secondly, a facility, such as a Consolidator or an Express Consignment Carrier, that handled the shipment and/or arranged for its delivery to the incoming carrier, would also have access to particular information about the cargo, more so than the incoming carrier. Generally speaking, for consolidated shipments, information in the direct possession of such a facility would consist of data from its house air waybill(s) that would not be directly known by the incoming carrier.

Thus, in recognition of possible competitive relationships that a party such as a container freight station, freight forwarder, or express consignment or other carrier, might have with the incoming air carrier, such party would have the opportunity, if it so elected, to present the required information directly to CBP, as opposed to having to present this information to the inward air carrier or a service provider who would, on its behalf, transmit this information for the cargo to CBP.

In any event, it would not be realistic or feasible to seek to obligate a foreign country (government) to transmit advance cargo information for commercial cargo sent from that country to the United States; and it is submitted in this connection that section 343(a)(3)(B), as amended, clearly envisages the electronic filing of cargo information by appropriate commercial or business entities, rather than foreign governments.

Since the party from whom electronic air cargo information would be required might not necessarily, in all situations, be the party with direct knowledge of that information, CBP would take into consideration how, in accordance with ordinary commercial practices, the electronic filer acquired such information, and whether and how the filer was able to verify this information. Where the party electronically presenting the cargo information to CBP was not reasonably able to verify such information, CBP would permit the party to electronically present the information on the basis of what the party reasonably believed to be true.

Comment

There should be an exemption from the advance cargo filing requirements for aircraft that are owned or leased by the Department of Defense.

CBP Response

Aircraft, including public aircraft as defined in 19 CFR 122.1(i), that are exempt from entry under 19 CFR 122.41 would be exempt from advance cargo information filing under this proposed rule. It is noted that by a separate, interim rule, CBP will expand upon those aircraft that are subject to such an exemption from entry.

Comment

Participants in the Customs-Trade Partnership Against Terrorism (C–TPAT), and related parties, should be excluded from the advance cargo information requirement or should be subject to a reduced time frame within which the advance cargo information must be transmitted.

CBP Response

The CBP disagrees with this suggestion. However, participation in C–TPAT would be considered as one factor in targeting whether cargo needed to be held upon arrival pending the receipt of further information or for examination. Such additional information, if required, would have to be made available at the port of arrival.

Required Cargo Information; Availability/Correction of Data Transmitted

Comment

For freight forwarders that might participate in the advance electronic filing of cargo information, it was asked what information they would specifically be required to transmit to CBP.

CBP Response

The specific data elements that would be required from a participating party are enumerated below under the heading ''Overview; Air Cargo Destined to the United States'' (*see* ''Additional Data Elements from Incoming Carriers; Other Participants''); and these data elements are also set forth in proposed § 122.48a(d). A freight forwarder could be included among those parties that could participate voluntarily in electronic cargo information filing, provided that the freight forwarder was either an ABI filer, a Container Freight Station/deconsolidator or an Express Consignment Carrier Facility; that it had posted a Customs international carrier bond containing all necessary provisions of 19 CFR 113.64; and that it had established the communication protocol required by CBP for properly presenting electronic data through the system.

Comment

The CBP should clearly define the meaning of those data elements which must be presented for inbound air cargo.

CBP Response

The CBP believes that the proposed data elements to be required in advance for incoming air cargo are fairly well known; however, a number of the data elements set out in the proposed regulations are accompanied by detailed explanations as to their meaning. Should it be called for, CBP will include additional definitions for those elements about which the importing air community might prefer greater elucidation.

Therefore, CBP requests comments in response to this proposed rule especially concerning those data elements contained in proposed § 122.48a(d) for which the importing air community seeks additional guidance.

Comment

Most of the necessary data for incoming cargo would not necessarily be available prior to its lading aboard the aircraft. Moreover, the line-item Harmonized Tariff Schedule (HTS) number for air cargo would not be available prior to the departure of the aircraft. The air carrier would not always have information for cargo at the house air waybill level; and CBP should allow in-transit consolidations to be reported at the master air waybill level. Also, CBP should permit an air carrier to submit electronic cargo data for shipments brought in by truck.

CBP Response

Because CBP proposes to require advance cargo information for incoming aircraft either no later than the time of ''wheels-up'' or no later than 4 hours prior to arrival in the United States, as applicable (and not prior to the foreign lading of the cargo aboard the aircraft), the commenters' concerns as to the availability of the necessary data for the cargo prior to foreign lading are addressed.

Nevertheless, concerning the possible unavailability of the 6-digit HTS number for the cargo prior to foreign departure, it is emphasized that either a precise description of the cargo or its HTS 6-digit tariff subheading would be sufficient. In any case, under the

proposal, as already explained, the line-item HTS number for the cargo would essentially not be required prior to the departure of the aircraft for the United States.

As to the carrier not always having cargo information from the house air waybill, should another party, such as an ABI filer, elect to participate in advance automated cargo information filing, the carrier would only be responsible for transmitting information from the master air waybill. However, if another electronic filer did not participate in transmitting needed cargo information to CBP, the incoming carrier would need to obtain the house air waybill information from the relevant party for presentation to CBP.

In-transit consolidations of inbound cargo typically present the same issues of cargo safety and security as other inbound shipments. Thus, the complete house air waybill information would be required from the carrier or the other party electing to participate in advance cargo information filing. Also, should an air carrier choose to ship freight by truck, advance cargo information would be required to be presented to CBP through the truck processing system (*see* proposed § 123.92); electronic air documents would not be accepted in lieu of advance electronic truck cargo information.

Comment

If cargo were bumped from one flight to a later flight, there should be no need to re-transmit related cargo information that was previously transmitted to CBP.

CBP Response

Given the time frames proposed, since cargo information would essentially not be required prior to the departure of the aircraft for the United States, this issue should not present a significant concern.

Comment

The CBP should allow changes and additions to electronically transmitted manifest information in accordance with current manifest discrepancy reporting policies.

CBP Response

Complete and accurate information would need to be presented to CBP for cargo aboard the aircraft no later than the time period specified for the particular foreign area from which the aircraft departs for the United States. As for any changes in the cargo information already transmitted for a flight, the procedures for discrepancy reporting will be the subject of a separate rulemaking.

Pre-Departure Screening of Cargo; Cargo Inspections in the United States

Comment

Air cargo security is already highly regulated by the Transportation Security Administration (TSA), the Federal Aviation Administration (FAA), and other agencies and foreign governments. As such, there should be no pre-departure screening process required for incoming air cargo. In the alternative, it was advocated that CBP should consider a CSI (Container Security Initiative)-type program for air cargo. In the event that pre-departure/lading information is necessary for pre-screening purposes, CBP should provide a positive load/no-load message to the electronic filer. Also, for cargo that may be identified as high risk, CBP should not compel inspections of such cargo at locations in the United States that are merely technical stops.

CBP Response

There will be no pre-departure-screening-and-hold process applied to air cargo under this proposal. While CBP may consider the possibility of developing a CSI-type initiative for air cargo based on a number of factors, including the terrorist threat, the success of industry security programs, and the success of this rulemaking and related CBP security efforts, such a proposal falls outside the scope of this rulemaking.

In addition, inspections of cargo in the United States conducted for the purpose of ensuring cargo safety and security and for the prevention of smuggling would only be conducted if the cargo had been identified as potentially posing a safety, security or smuggling risk; and CBP would work with the carrier and other affected Government agencies to determine an appropriate location to examine such potentially high-risk cargo. In appropriate cases, however, landing rights could be denied to an incoming carrier if advance cargo information was not timely, accurately, and completely presented to CBP (*see* proposed § 122.14).

Comment

The possible need for a carrier to retain cargo in a staging/storage area at a foreign location in order to comply with a pre-departure advance information requirement for inbound cargo would create a security risk for the cargo that would not otherwise exist.

CBP Response

As indicated, the time frames proposed for the advance reporting of air cargo information have been designed so as to preclude any need to retain cargo in a foreign area in order to comply with the pre-arrival reporting mandate.

Requested Exemptions/Exclusions From Electronic Filing Requirements

Comment

Advance electronic information should not be required for inbound air cargo in diplomatic pouches. Merchandise brought in by the air carrier for its own use should be exempt as well from the advance electronic information provisions. Also, letters and documents should be exempted from the detailed advance electronic cargo information submission. It was further asked whether the advance filing requirements would apply to hand-carried merchandise or merchandise checked in passenger baggage.

CBP Response

For purposes of this rulemaking, all air cargo shipped under an air waybill, regardless of its nature, would be subject to the advance electronic reporting provisions. This would include diplomatic pouches and letters and documents. Also, merchandise brought in by an air carrier for its own use would be subject to the same advance cargo information filing requirements that would apply to other incoming cargo. However, hand-carried merchandise and merchandise contained in passenger baggage would not be subject to the advance cargo information requirements in this rulemaking; such merchandise would be included in the passenger baggage declaration.

Required Information Technology; Trade Support; Transition Periods

Comment

It was asked whether CBP would provide staffing for data/targeting analysis and related trade support on an around-the-clock basis; and two commenters were insistent that CBP conduct extensive training in Air AMS filing procedures at all ports. Various concerns were also expressed as to the ability of CBP to effectively analyze advance cargo information.

CBP Response

An automated targeting system for performing a risk assessment for incoming air cargo will be fully in place upon the effective date of the final regulations. Automated data/targeting analysis for risk assessment will be available at all times. Related trade support will be available during regular

port hours; and CBP will conduct any training that CBP personnel might need in Air AMS procedures.

Comment

To effectuate the filing of electronic cargo information under section 343(a), as amended, CBP should consider integrating advanced information technology (IT) products into its current automated manifest filing system. Additionally, the Automated Commercial Environment (ACE) system should be compatible with the implementing regulations. Also, there should be a grace period given under the implementing regulations in order to afford trade participants the chance to make suitable changes to their computer programming; and there should likewise be a grace period allowed during which such trade participants could bring the detail and accuracy of their advance information filing up to the level that CBP would require.

CBP Response

While disposed to explore any advances in IT products, CBP will largely rely, at least initially, upon the Air AMS, with appropriate future modifications, as the principal vehicle to achieve the goal of advance air cargo information presentation under section 343(a), as amended. However, any new system developed within the framework of ACE will be compatible with the implementing regulations. For this reason, therefore, the implementing regulations will refer generally to a CBP-approved electronic data interchange system (rather than to Air AMS, specifically).

The CBP contemplates that, pursuant to section 343(a)(3)(J), as amended, the effective date that would be set for the final implementing regulations following their promulgation should afford sufficient time for Air AMS participants to make suitable changes to their programming for the advance transmission of cargo data; and the effective date would similarly incorporate a reasonable grace period within which Air AMS participants should be able to bring their advance data filing up to the level of detail and accuracy that CBP seeks. Specifically, the proposed effective date, and the provisions for delaying the effective date, for compliance with the advance presentation of electronic air cargo information to CBP under section 343(a), as amended, are contained in proposed § 122.48a(e).

Overview; Air Cargo Destined to the United States

Electronic Systems To Be Used

Air carriers, and certain other parties authorized for voluntary participation in the program, must transmit through a CBP-approved electronic data interchange system advance cargo air waybill information, in accordance with the ''Transition and Implementation Timeline'' discussed below. The current CBP system for transmitting air cargo information is the Air Automated Manifest System (Air AMS). Also, certain express consignment carriers have proprietary electronic data systems which CBP personnel can access. The CBP will permit the use of these electronic proprietary systems, provided that the participants are capable of providing the data in a suitable electronic format to CBP for the purposes of ensuring cargo safety and security and preventing smuggling, unless CBP determines that it is necessary to migrate those participants to Air AMS. In addition, these express consignment carriers will be required to provide CBP with an electronic record of the data in a CBP-approved storage medium. All other express consignment carriers, including those that currently submit information to CBP using paper documents, will be required to participate in Air AMS.

Data Submission Timelines

Air carriers and other parties electing to participate in the program would transmit the required information to CBP no later than the time of departure (''wheels-up'') for aircraft that are departing for the United States from any foreign port or place in North America, including locations in Mexico, Central America, South America (from north of the Equator only), the Caribbean, and Bermuda. For aircraft departing for the United States from any other foreign area, such carriers and other parties would transmit the required information to CBP no later than 4 hours prior to the arrival of the aircraft at the first port of arrival in the United States. This amount of time should enable CBP to conduct an adequate analysis of the data and to select individual shipments for further document review or physical examination, while not disrupting the flow of commerce and ''just-in-time'' delivery systems.

Parties Required/Eligible To Present Advance Electronic Cargo Information

All carriers required to enter under § 122.41, Customs Regulations (19 CFR 122.41), would be required to participate in the electronic data interchange system and present the necessary cargo information to CBP.

The carrier will only need to be automated at each port where entrance and clearance of the aircraft is required. Incoming air carriers and other authorized parties who choose to do so may participate in Air AMS until CBP migrates to a different processing system. For this reason, the implementing regulations will refer only to a ''CBP-approved electronic data interchange system'' in order to accommodate the future migration to any superseding data processing systems.

In addition to an incoming air carrier for whom participation will be mandatory, one of the following parties may elect to transmit particular data to CBP for incoming cargo: an ABI filer (importer or its Customs broker); a Container Freight Station/deconsolidator as identified by its FIRMS code; an Express Consignment Carrier Facility likewise identified by its FIRMS code; or an air carrier as identified by its IATA code, that arranged to have the incoming air carrier transport the cargo to the United States. To be qualified to file cargo information electronically, the party would need to establish the communication protocol required by CBP for properly presenting electronic information through the data interchange system; and, except for an importer or broker, the party would have to possess a Customs international carrier bond containing all the necessary provisions of 19 CFR 113.64.

Consequently, the carrier will either have to obtain all the needed cargo shipment information for presentation to CBP, or the carrier will need to obtain the unique identifier of the party that will separately transmit to CBP a portion of the required data for the cargo; the other party's unique identifier code would have to accompany the carrier's data transmission to CBP, so that CBP could associate the subject cargo shipment with both electronic transmissions related to the cargo.

Permission to unlade all or part of the cargo could be denied or delayed, and penalties and/or liquidated damages could be assessed, where the air carrier or other electronic filer transmitted inaccurate, incomplete or untimely information to CBP.

Information Required From Air Carriers

An incoming air carrier would need to transmit all of the necessary information for non-consolidated air waybills. For consolidated shipments: the carrier would have to present to CBP all the required information from the master air

waybill record; and the carrier would supply all the information for associated house air waybill records where another authorized party did not electronically transmit information for the associated house air waybills directly to CBP. If another approved party did transmit the information, the carrier would not be required to electronically supply such information.

The carrier would still be required under 19 U.S.C. 1431 to have a manifest for all cargo aboard the aircraft, whether that cargo was manifested under a non-consolidated air waybill or a house air waybill that was part of a consolidation.

These proposed regulations apply to air cargo that would be entered into the United States, as well as to in-transit air cargo including any cargo which remained aboard the aircraft on the same through flight.

Specific Data Elements; Air Carriers

In the following listing of data elements for air carriers, an ''M'' next to any element indicates that the data element would be mandatory in all cases; a ''C'' next to the data element indicates that the data element was conditional and would be transmitted to CBP if the condition were present for that particular air waybill.

(1) Air waybill number (M) (The air waybill number is the International Air Transport Association (IATA) standard 11-digit number);

(2) Trip/flight number (M);

(3) Carrier/ICAO (International Civil Aviation Organization) code (M) (The approved electronic data interchange system supports both 3- and 2-character ICAO codes, provided that the final digit of the 2-character code is not a numeric value);

(4) Airport of arrival (M) (The 3-alpha character ICAO code corresponding to the first airport of arrival in the Customs territory of the United States (for example, Chicago O'Hare = ORD; Los Angeles International Airport = LAX));

(5) Airport of origin (M) (The 3-alpha character ICAO code corresponding to the airport from which a shipment began its transportation by air to the United States (for example, if a shipment began its transportation from Hong Kong (HKG), and it transits through Narita, Japan (NRT), en route to the United States, the airport of origin is HKG, not NRT));

(6) Scheduled date of arrival (M);

(7) Total quantity based on the smallest external packing unit (M) (for example, 2 pallets containing 50 pieces each would be considered as 100, not 2);

(8) Total weight (M) (may be expressed in either pounds or kilograms);

(9) Cargo description (M) (for consolidated shipments, the word ''Consolidation'' is a sufficient description for the master air waybill record; for non-consolidated shipments, a precise cargo description or the 6-digit Harmonized Tariff Schedule (HTS) number must be provided);

(10) Shipper name and address (M) (for consolidated shipments, this may be the name and address of the consolidator, express consignment or other carrier, for the master air waybill record; for non-consolidated shipments, this must be the name and address of the actual shipper (the owner and exporter) of the merchandise from the foreign country);

(11) Consignee name and address (M) (for consolidated shipments, this may be the name and address of the container freight station, express consignment or other carrier, for the master air waybill record; for non-consolidated shipments, this must be the name and address of the party to whom the cargo will be delivered, with the exception of ''FROB'' (Foreign Cargo Remaining On Board));

(12) Consolidation identifier (C);

(13) Split shipment indicator (C) (this data element includes information indicating the particular portion of the split shipment that will arrive; the boarded quantity of that portion of the split shipment (based on the smallest external packing unit); and the boarded weight of that portion of the split shipment (expressed in either pounds or kilograms));

(14) Permit to proceed information (C) (this element includes the permit-to-proceed destination airport (the 3-alpha character ICAO code corresponding to the permit-to-proceed destination airport); and the scheduled date of arrival at the permit-to-proceed destination airport);

(15) Identifier of other party which is to submit additional air waybill information (C);

(16) In-bond information (C) (this data element includes the destination airport; the international/domestic identifier (the in-bond type indicator); the in-bond control number, if there is one (C); and the onward carrier identifier, if applicable (C)); and

(17) Local transfer facility (C).

Additional Data Elements From Incoming Carriers; Other Participants

In addition to the data elements listed in items ''1'' through ''17'' above, the incoming air carrier, or another eligible electronic filer electing to do so, must transmit the following information to CBP for the inward cargo:

(1) The master air waybill number and the associated house air waybill number (M) (the house air waybill number may be up to 12 alphanumeric characters (each alphanumeric character that is indicated on the paper house air waybill document must be included in the electronic transmission; alpha characters may not be eliminated));

(2) Foreign airport of origin (M) (The 3-alpha character ICAO code corresponding to the airport from which a shipment began its transportation by air to the United States (for example, if a shipment began its transportation from Hong Kong (HKG), and it transits through Narita, Japan (NRT), en route to the United States, the airport of origin is HKG, not NRT));

(3) Cargo description (M) (a precise description of the cargo or the 6-digit Harmonized Tariff Schedule (HTS) number must be provided. Generic descriptions, specifically those such as ''FAK'' (''freight of all kinds''), ''general cargo'', and ''STC'' (''said to contain'') are not acceptable);

(4) Total quantity based on the smallest external packing unit (M) (for example, 2 pallets containing 50 pieces each would be considered as 100, not 2);

(5) Total weight of cargo (M) (may be expressed in either pounds or kilograms);

(6) Shipper name and address (M) (the name and address of the actual shipper (the owner and exporter) of the cargo from the foreign country);

(7) Consignee name and address (M) (the name and address of the party to whom the cargo will be delivered in the United States, with the exception of ''FROB''); and

(8) In-bond information (C) (this data element includes the destination airport; the international/domestic identifier (the in-bond type indicator); the in-bond control number, if there is one (C); and the onward carrier identifier, if applicable (C)).

Advance Electronic Information for Letters and Documents

For purposes of compliance with the advance cargo information filing requirements under section 343(a), as amended, letters and documents would be subject to the same procedures as all other types of cargo. Such ''letters and documents'' comprise the data (for example, business records and diagrams) described in General Note 19(c), Harmonized Tariff Schedule of the United States (HTSUS); personal correspondence, whether on paper, cards, photographs, tapes, or other media; and securities and similar evidence of value described in subheading 4907, HTSUS, but not

including monetary instruments covered under 31 U.S.C. 5301–5322.

Electronic Freight Status Notifications

If the facility (carrier, deconsolidator, or other party) currently holding the goods was automated, that party would have to honor all freight status notifications transmitted by CBP. Cargo could not be transferred to another facility, moved under the provisions of the in-bond regulations or released to the consignee except upon electronic status notifications from CBP. Should the cargo be transferred to a non-automated facility (*e.g.*, a Container Freight Station, a carrier facility in another port, or the like), that facility would be required to accept only paper documents for the disposition of the cargo.

Transition and Implementation Timeline

All air carriers, and those authorized parties that choose to participate in presenting advance cargo information electronically to CBP through the approved automated system, would be expected to comply with the provisions of these regulations on and after 90 days from the date that the final rule in this matter is published in the **Federal Register**. However, CBP could delay the implementation of the final regulations at a given port until the necessary training had been provided to CBP personnel at that port. Also, CBP could delay the effective date of the final regulations in the event that any essential programming changes to the applicable CBP-approved electronic data interchange system were not in place. Finally, CBP could delay the effective date of the regulations if further time were required to complete certification testing of new participants. Any such delay would be the subject of a notice provided through the **Federal Register**

Electronic System Failure; Downtime

Should the approved electronic data interchange system go down, the incoming air carrier and, if applicable, any other electronic filer would have to submit a hard copy equivalent of all required electronic cargo information to CBP either no later than ''wheels-up'' or no later than 4 hours prior to the arrival of the aircraft in the United States, depending upon the foreign area from which the incoming aircraft departs for the United States.

Comments; Rail Cargo Destined to the United States

Time Frame for Transmitting Information; Impact on Commerce

Comment

Various suggestions were made regarding the time in which advance rail cargo data would need to be electronically presented to CBP. Specifically, the following time frames were put forth: 4 hours prior to departure for the United States; 4 hours prior to arrival in the United States; 2 hours prior to arrival; and under 2 hours prior to arrival. By contrast, it was stated that the time frame set forth in the ''strawman'' proposal (24 hours prior to lading in the foreign country) was unworkable/unrealistic. It was also stated that any time frame that CBP proposed should not adversely impact ''just-in-time'' shipping practices.

CBP Response

The time frame in the ''strawman'' was put forth only as a perfunctory proposal, merely for the purpose of eliciting feedback from the trade in order to assist CBP in developing an appropriate time frame for inclusion in the proposed regulations. After considering the various recommendations from the rail trade, CBP agrees with those commenters who recommended that electronic cargo data for incoming rail cargo be presented no later than 2 hours prior to the arrival of the cargo at a United States port of entry.

The CBP is of the opinion that this minimum 2-hour period for presenting rail cargo information electronically in advance of arrival is a reasonable and practical time frame for the submission of the necessary cargo data, and one that should not disrupt the flow of rail commerce into the country. This view is based in large part on the understanding that rail carriers will transmit cargo data on many types of shipments (*e.g.*, intermodal sea traffic) as it becomes available, thereby limiting the amount of data that is transmitted 2 hours prior to arrival.

At present, CBP finds that this is the minimum time period needed to perform the requisite risk analysis in relation to the transmitted data, and, if necessary, to request further information about the cargo, or to arrange for its examination in those instances, which are anticipated to be rare, where an examination should be found warranted.

Rail carriers need to be advised, however, that while CBP is confident that the targeting can be accomplished within the 2-hour period, it may result in more trains spending time at the border uncoupling cars in order for them to be examined. Nevertheless, CBP is confident that this proposed time frame should not have any notable impact upon rail business practices, including ''just-in-time'' (JIT'') inventory shipments. In this latter respect, CBP is aware that commerce has increasingly relied on ''JIT'' shipping as a more cost effective way of conducting business.

Party Required To Present Data to CBP

Comment

One commenter asked that the shipper (the exporter from the foreign country) and the United States importer be required to transmit the required cargo data to CBP. Another commenter said that the shipper should supply the data. Three commenters asserted that data should be accepted utilizing current systems and that the trade not be forced to incur extraordinary expenses for system upgrades which might only have to be quickly replaced due to the establishment of the Automated Commercial Environment (ACE).

CBP Response

While it is recognized that the shipper and/or the United States importer could be the parties most likely to possess direct knowledge of particular information about the incoming rail cargo, CBP has initially concluded that it should be incumbent upon the rail carrier to submit the required information for the cargo. Simply stated, the current CBP-approved electronic data interchange system (the Rail Automated Manifest System (Rail AMS)) is essentially structured and programmed only to receive such data directly from the carrier. Accepting advance cargo information from the shipper and/or the United States importer would not be practicable in the present automated rail environment.

The CBP will employ the prevailing system to electronically transmit and receive cargo information pending the advent of the Automated Commercial Environment (ACE). When ACE is established and in place, it may have the capability to receive data from the foreign exporter and/or the U.S. importer.

Requested Exemptions From the Advance Electronic Filing Requirements

Comment

Vessel-to-rail containers and bulk/break-bulk shipments should be exempted from the filing requirements.

Members of C–TPAT (the Customs-Trade Partnership Against Terrorism) and participants in the FAST (Free And Secure Trade) system should be exempted from having to present advance electronic cargo data for their shipments; and the Department of Defense (DoD) should have exemptions based on the nature of their shipments (descriptions for sensitive military cargo should be general).

CBP Response

Generally speaking, it is the view of CBP that a straightforward and streamlined regulation, unencumbered with multiple special exemptions, would present the most workable system especially with respect to the rail environment. Given the abbreviated time frame proposed (no later than 2 hours prior to arrival at a U.S. port of entry), CBP believes that the rail community in particular should be able to comply with the advance transmission of needed cargo data, with no measurable disruption in the flow of cross-border commerce; this should render moot most of the special requests for exemptions from the proposed advance filing requirements.

Nevertheless, CBP is proposing to exempt one category of cargo from the advance automated notification rule: Domestic cargo that would arrive by train at one port from another in the United States after transiting a foreign country would not be subject to the advance electronic information filing requirement for incoming cargo; but advance information for such domestic cargo may be electronically presented to CBP, if desired.

Required Data Elements

Comment

Required data elements to be transmitted to CBP should be clearly set forth; and CBP should give clear instructions as to what level of data would be sought.

CBP Response

The proposed data elements for incoming rail cargo are contained in proposed § 123.91(d). A number of the data elements contained in this proposed regulation are accompanied by explanations. The CBP will include additional definitions for those elements about which the importing rail community may desire greater elucidation. To assist in making this determination, CBP requests comments especially concerning those data elements for which the importing rail community seeks further guidance.

Information Technology; High Risk Cargo

Comment

The CBP would need to automate any ports that were not already automated in order to enable the port to transmit or receive electronic data as part of the advance information filing program.

CBP Response

The CBP will automate any remaining port that is not now operational on the existing CBP-approved electronic data interchange system (Rail AMS).

Comment

Mandatory automation under section 343(a), as amended, would place additional pressure on trade participants. The CBP should take steps to ensure that its offices would be fully staffed around-the-clock at all rail crossings in order to handle any eventualities resulting from the implementation of the final advance cargo information filing regulations.

CBP Response

The CBP will make every effort to ensure that there will be sufficient staff to assist the trade in effectively complying with the regulations. The CBP is aware that effectively administering the advance cargo information program will undoubtedly place upon it additional burdens, especially on some of the smaller ports along the border.

Comment

Railroads rely extensively on Automated Line Release. The CBP should retain the C–4 Line Release Program (19 CFR part 142, subpart D) for the rail industry; eliminating Line Release would negatively affect carriers participating in Rail AMS as it would delay the time required for rail release.

CBP Response

For the present, CBP intends to keep some type of Line Release, which might necessitate only some slight changes in names and terms.

Comment

The CBP should establish procedures to be followed if Rail AMS were not functioning properly when a carrier attempted to file information through the system. Specific backup systems should be designated in the event of unplanned outages of either CBP's system or the rail carriers' systems.

CBP Response

The CBP contemplates that the existing procedures of presenting a paper copy of the electronic data elements would still be used, with some adjustments as appropriate.

Comment

Should an examination of any cargo aboard the incoming train be found warranted, the train should be allowed to proceed to the first inland port where the examination would be conducted.

CBP Response

Absent special circumstances, all security-related examinations under section 343(a), as amended, would occur at or near the border.

Transition Period for Complying with Advance Cargo Information Filing

Comment

A number of commenters advocated that they be afforded a transition period for complying with the regulations, without specifying what the period should be. One commenter asked for a period of 180 days; another suggested that different periods be allowed for different types of affected parties; and another requested that there be a period similar to the 90-day transition period granted for incoming vessel cargo under the ''24-hour rule'' (T.D. 02–62, 67 FR 66318; October 31, 2002).

CBP Response

The CBP, as noted, seeks uniformity and simplicity in its advance cargo reporting rule for rail traffic, and agrees with the recommendation that a 90-day transition period would be adequate under the circumstances, particularly given that the rail industry is highly automated. Hence, a rail carrier would need to begin the electronic transmission to CBP of the required cargo information 90 days from the date that the port of arrival becomes automated.

Overview; Rail Cargo Destined to the United States

Rail Carrier Transmittal of Required Information for Incoming Cargo

For any train requiring a train sheet under 19 CFR 123.6, that would have commercial cargo aboard, the rail carrier would be required to electronically present to CBP certain information concerning the incoming cargo no later than 2 hours prior to arrival at a United States port of entry. Specifically, based upon the transition/timetable as discussed below under ''Transition Period,'' to effect the advance electronic transmission of the required rail cargo information to CBP, the rail carrier would have to use a CBP-approved electronic data interchange system.

Currently, the CBP-approved automated system for this purpose is the Rail Automated Manifest System (Rail AMS).

As indicated, the current CBP-approved automated system (Rail AMS) for electronically collecting cargo information for incoming rail cargo is programmed and structured to receive cargo data only from the inward rail carrier. Additionally, it is highly practicable and administratively expeditious for CBP to obtain the necessary cargo data from rail carriers as these carriers would already have the most direct contact with CBP, as opposed to the foreign shipper (exporter), a foreign freight forwarder, or the U.S. importer, who could, nevertheless, be more likely to have direct knowledge of particular information involving the incoming cargo. For this latter reason, and as a pre-requisite to accepting the cargo, the carrier would need to receive any necessary cargo information from the foreign shipper and owner of the cargo or from a freight forwarder, as applicable.

Foreign Cargo Transiting the United States

Any foreign cargo arriving by train for transportation in transit across the United States would be subject to the advance electronic information filing requirement for incoming cargo. This includes foreign cargo being transported from one foreign country into another, and cargo arriving by train for transportation through the United States from one point to another in the same foreign country. Further, cargo that was to be unladen from the arriving train and entered, in bond, for exportation, or for transportation and exportation, in another vehicle or conveyance would also be subject to this advance electronic information filing requirement.

Exemption From Filing Mandate; Domestic Cargo Transiting Foreign Country

With respect to incoming rail cargo, CBP believes that, as a general proposition, exemptions from the advance electronic filing requirements would unduly complicate the administration of the program. In consideration of the fairly abbreviated time frame for transmitting the electronic cargo information, CBP finds that a basic, uniformly-imposed advance filing requirement would occasion only minimal disruption to cross-border commerce in the rail environment.

Nevertheless, domestic cargo that would arrive by train at one port from another in the United States after transiting a foreign country would not be subject to the advance electronic information filing requirement for incoming cargo; however, advance information for such domestic cargo could be electronically presented to CBP, if desired.

Specific Information Required From the Carrier

The rail carrier must electronically present to CBP the following cargo shipment information for all incoming cargo, as outlined above, that would arrive in the United States by train:

(1) The rail carrier identification SCAC code (the unique Standard Carrier Alpha Code assigned for each carrier by the National Motor Freight Traffic Association; *see* 19 CFR 4.7a(c)(2)(iii));

(2) The carrier-assigned conveyance name, equipment number and trip number;

(3) The scheduled date and time of arrival of the train at the first port of entry in the United States;

(4) The numbers and quantities of the cargo laden aboard the train as contained in the carrier's bill of lading, either master or house, as applicable (this means the quantity of the lowest external packaging unit; containers and pallets do not constitute acceptable information; for example, a container holding 10 pallets with 200 cartons should be described as 200 cartons);

(5) A precise description (or the Harmonized Tariff Schedule (HTS) numbers to the 6-digit level under which the cargo is classified if that information is received from the shipper) and weight of the cargo; or, for a sealed container, the shipper's declared description and weight of the cargo (generic descriptions, specifically those such as ''FAK'' (''freight of all kinds''), ''general cargo,'' and ''STC'' (''said to contain'') are not acceptable);

(6) The shipper's complete name and address, or identification number, from the bill(s) of lading (this means the actual owner (exporter) of the cargo from the foreign country; listing a freight forwarder or broker under this category is not acceptable; the identification number will be a unique number to be assigned by CBP upon the implementation of the Automated Commercial Environment);

(7) The complete name and address of the consignee, or identification number, from the bill(s) of lading (The consignee is the party to whom the cargo will be delivered in the United States. However, in the case of cargo shipped ''to the order of [a named party],'' the carrier must identify this named ''to order'' party as the consignee; and, if there is any other commercial party listed in the bill of lading for delivery or contact purposes, the carrier must also report this other commercial party's identity and contact information (address/phone number) in the ''Notify Party'' field of the advance electronic data transmission to CBP, to the extent that the CBP-approved electronic data interchange system is capable of receiving this data. The identification number will be a unique number assigned by CBP upon implementation of the Automated Commercial Environment);

(8) The place where the rail carrier takes possession of the cargo shipment;

(9) Internationally recognized hazardous material code when such materials are being shipped by rail;

(10) Container numbers (for containerized shipments) or the rail car numbers; and

(11) The seal numbers for all seals affixed to containers and/or rail cars, to the extent that the electronic system can accept this information (currently, Rail AMS only has the capability to accept two seal numbers per container; the electronic presentation of up to two seal numbers for each container would be considered as constituting full compliance with this data element).

Electronic Freight Status Notifications

If the party holding the goods was automated, that party would have to honor all freight status notifications transmitted by CBP. Cargo could not be transferred to a facility, moved under the provisions of the in-bond regulations or released to the consignee except upon electronic status notifications from CBP.

Transition Period

The CBP will be automating any existing port that currently is not able to receive or transmit electronic information through the CBP-approved electronic data interchange system. There are currently up to 12 ports, most of them Permit Ports, that would require automation and training for CBP staff who are unfamiliar with the electronic data interchange system. Rail carriers would have to commence the advance electronic transmission to CBP of the required cargo information on and after 90 days from the date that CBP publishes a notice in the **Federal Register** informing affected carriers that Rail AMS is in place and operational at the port of entry where the train would initially arrive in the United States.

Electronic System Failure; Downtime

Should the automated system fail, after going online, existing procedures, with some adjustments, if necessary,

would be used for presenting a hard copy equivalent of the electronic documentation to CBP.

Public Comments; Truck Cargo Destined to the United States

Summary of Principal Comments

The following comments were received regarding the procedures for advance reporting of inbound cargo information for trucks:

1. Any provision for pre-reporting information for inbound truck cargo should be pre-arrival, rather than pre-lading; and it was variously recommended that such notification be required no earlier than either 15 minutes or 30 minutes prior to reaching the port of arrival in the United States. These time frames are necessary to account for the ''just-in-time'' delivery systems that have been developed around land border operations.

2. To accomplish the electronic transmission of the requisite data to CBP, on an interim basis, pending the establishment of the electronic truck multi-modal manifest system in the Automated Commercial Environment (ACE), the trade should be able to satisfy the pre-notification requirements of the statute by using existing systems/programs, such as PAPS (the Pre-Arrival Processing System), BRASS (the Border Release Advanced Screening and Selectivity program, and FAST (the Free and Secure Trade program). In particular, CBP should take into consideration the importance of the role of the BRASS system in expediting the flow of traffic at the land borders.

No new information-submission systems should be initiated or imposed during the interim period. The proposed pre-reporting provisions should be uniform for all ports on the U.S./Canada as well as the U.S./Mexico borders. Filers should not be held liable for incorrect/incomplete information supplied by others.

3. There should be transition periods for implementing advance cargo information transmissions for the trucking industry that would take into account the fact that the industry has, at present, multiple sectors with varying, limited degrees of automation; indeed, much of the trucking trade on the U.S./Mexico border is currently not automated. Further, a contingency plan for handling shipments arriving without any pre-notification should be created and publicized.

4. CBP should expand its hours of operation to 24 hours a day, seven days a week and have sufficient staffing to perform any inspections during those hours.

5. Participation in special programs such as the Customs-Trade Partnership Against Terrorism (C–TPAT) should be taken into account by CBP and CBP should work with the Canadian government under the Shared Border Accords to arrive at common procedures and requirements to ease the burden on the trade.

CBP Response

Taking into account the flexibility provided by the Trade Act (*e.g.*, developing interim measures based on existing technology to enable CBP to identify high-risk shipments), CBP agrees that, on an interim basis, existing systems, especially the Free and Secure Trade (FAST) system, will be employed, being enhanced and adapted as appropriate, to effect the advance presentation of the necessary commodity and carrier information for inbound truck cargo, as a prelude to the creation and activation of the Truck Manifest module in ACE. (The Truck Manifest module in ACE will be the subject of a separate notice in the **Federal Register**.) However, regardless of what actual program(s)/procedure(s) may be employed at any given time or place to comply with the pre-arrival information filing requirements of section 343(a), as amended, the regulations, for uniformity and continuity, will simply reflect that the required data elements must be presented through a CBP-approved electronic data interchange system.

Interim Measures

As indicated, until the development of the Truck Manifest Module in ACE, CBP will employ existing systems on both the Northern and Southern borders to receive and evaluate information for incoming truck shipments. These systems are FAST, PAPS (which uses the Automated Broker Interface (ABI)), BRASS (which would be modified as necessary), and CAFES (the Customs Automated Forms Entry System) or ABI in-bond reporting.

The Pre-Arrival Processing System (PAPS) is a method of speeding the release of Border Cargo Selectivity or regular Cargo Selectivity entries on the land border. The shipment data required to submit an entry through the Automated Broker Interface (ABI) must be provided to the entry filer by the shipper or the carrier or other trade partner in advance of the conveyance arrival. Also included in that ABI data is the Pro-Bill or Bill of Lading assigned to the shipment by the carrier and the Standard Carrier Alpha Code (SCAC) assigned to the carrier. That code and number is submitted through ABI to CBP by the entry filer. The carrier provides the driver with a bar-coded representation of that information to accompany the paper inward manifest (CF 7533) and invoices. The CBP inspector uses that bar code to retrieve the electronic record and targeting results in the automated system. The carrier can then be processed without the necessity of stopping at the entry filer's office and be released from either the primary truck inspection booth or from the cargo examination facility.

The advance transmission, via fax or other means, of the SCAC/Pro-bill number from the carrier or shipper to the filer eliminates the requirement of any return communication from the filer to the carrier. The submission of the ABI data in advance of arrival eliminates the need for carriers to park in an import lot and spend additional time at an entry filer's office; traffic congestion decreases and efficiencies in the release process increase.

The electronic filer would have to present commodity and transportation information to CBP for the subject cargo no later than either 30 minutes or 1 hour prior to the carrier's arrival at a United States port of entry, depending upon the specific CBP-approved system employed in transmitting the required data, with the exception of CAFES and BRASS, as described below. This 30-minute or 1-hour period would be measured by the time that CBP receives the information, as opposed to the time that the electronic filer transmits the information for the cargo. The CBP believes that this time period, in relation to the particular automated system used, would be the minimum period needed to perform a targeting analysis for cargo selectivity, and, if found warranted, to arrange for an inspection or examination of the cargo following its arrival. This advance cargo information reporting requirement would thus be the same at all ports, depending on the approved system used to present the cargo information to CBP.

Specifically, in this latter respect, under the Free and Secure Trade (FAST) system, the electronic filer would have to present commodity and transportation information to CBP for the subject cargo no later than 30 minutes prior to the carrier's arrival at a United States port of entry. The CBP believes that FAST shipments can be screened and targeted, as appropriate, with less advance notification than would otherwise be necessary, because of the prior screening incurred by the parties to the FAST transaction, including the driver. However, under PAPS or ABI in-bond reporting, the required cargo data would need to be

presented no later than 1 hour prior to arrival at the U.S. port of entry. By contrast, for CAFES and BRASS (as modified), given the limitations of these systems, the necessary information would be submitted upon arrival at the first port of entry.

The only system currently in effect that allows carrier transmission of data electronically to CBP is FAST, with respect to those transactions that have data submitted totally through an electronic interface with CBP. Other participants in FAST have the electronic shipment data transmitted via the entry filer in the Automated Broker Interface (ABI) system of the Automated Commercial System (ACS), while the carrier/driver presents a paper manifest for the goods on the conveyance. In either case, the driver must be a registered driver in the FAST Driver Registration Program. Under the FAST system, the electronic filer would need to present cargo data to CBP no later that 30 minutes prior to the carrier's arrival at a U.S. port of entry.

Additionally, CBP acknowledges the role that BRASS (formerly Line Release (19 CFR part 142, subpart D)) plays in the expeditious movement of cargo on the land border. However, the current methodology utilized in BRASS for trucks does not allow for an advance electronic notice prior to arrival. The BRASS system is, and remains, heavily based upon the presentation of paper manifests, invoices and C–4 bar code labels (19 CFR 142.43(b)). It is observed, though, that CBP has already instituted an electronic form of BRASS in the Rail Automated Manifest System, and intends to do the same with the introduction of a Truck Automated Manifest System in ACE. In the interim, CBP intends to allow the continuation of BRASS for trucks, but may institute some additional requirements or otherwise modify BRASS in order to increase the security of BRASS transactions.

The CBP proposes a gradual transition from the reliance on the paper based BRASS release system. With the incorporation of a fully electronic version of BRASS planned in the new automated truck manifest scheduled for delivery under the Automated Commercial Environment (ACE), CBP does not propose making any changes to the method in which the current paper based BRASS operates. A gradual reduction in the parties eligible to utilize the existing paper based BRASS system is planned, with limitations in participation based on concerns of other government agencies, the level of compliance within past BRASS shipments and the volume of usage over the course of the preceding year. Additionally, CBP will take measures considered necessary to ensure the security of the BRASS program by incorporating voluntary program requirements such as FAST Driver registration and participation in the Customs-Trade Partnership Against Terrorism.

Moreover, for in-bond shipments transiting the United States that arrive by truck, as an interim procedure, CBP will also make use of those systems that are currently available, since the necessity for screening advance data for in-bond truck shipments must be addressed while awaiting future automated systems in the truck environment. In particular, the Customs Automated Forms Entry System (CAFES) will be utilized to prepare the Customs Form (CF) 7512 in-bond document at all land border crossings where no other automation is available for in-bond shipments. While this capability does not include advance notice of the details of a shipment, it does include automated screening when the shipment arrives and is processed by CBP. As an alternative, carriers or their agents may use the Automated Broker Interface (ABI) to transmit in-bond information for shipments arriving by truck.

Interim Transition Periods

Furthermore, CBP recognizes the merit, and necessity, of affording suitable transition periods for implementing the regulations for inward truck cargo. To this effect, CBP proposes that cargo information be filed electronically for truck cargo that would arrive at a United States port of entry on and after 90 days from the date that CBP has published a notice in the **Federal Register** informing affected carriers that:

(1) The approved data interchange is in place and fully operational at that port; and

(2) The carrier must commence the presentation of the required advance cargo information through the approved system.

During these interim periods, however, if CBP suspected that goods were being routed in an attempt to evade advance scrutiny at an automated United States port of arrival, those goods would very likely be treated as high risk upon their arrival at a non-automated port.

Mandatory Filing by Truck Carrier; Voluntary Importer Participation

Under the proposed pre-notification program, the incoming truck carrier would be obliged to submit all essential information to CBP within the designated time period. However, the United States importer, or its Customs broker, if electing to do so, could instead timely file with CBP any required commodity and other data that it possessed in relation to the cargo. Such information would likely be directly known by the importer or its broker. If the importer or broker did elect to file the commodity data with CBP, the carrier would have to present the required data pertaining to the transportation of the cargo. Such information would, of course, be best known by the carrier.

In any event, should the electronic filer of the cargo information receive any of this information from another party, the law mandates that where the electronic filer is not reasonably able to verify the information received, the regulations must allow the filer to transmit the information based on what it reasonably believes to be true. The CBP has expressly included this mandate in the proposed regulations.

The CBP will make every effort to ensure that there will be sufficient staff to assist the trade in effectively complying with the regulations. The CBP is aware that effectively administering the advance cargo information program will undoubtedly place additional burdens upon it, especially on some of the smaller ports along the border.

Finally, CBP will not propose a contingency plan for handling cargo that is not pre-reported in accordance with the regulations; once implemented at a port, the advance reporting provisions would be mandatory for all required cargo. For any inward cargo for which advance electronic commodity and transportation information was not presented to CBP, as otherwise required in the regulations, the transporting carrier could be refused admission to the United States, or be denied a permit to unlade such cargo.

Overview; Truck Cargo Destined to the United States

Transmittal of Required Information for Incoming Cargo

For any truck required to report its arrival under 19 CFR 123.1(b), that will have commercial cargo aboard, CBP must electronically receive from the inbound truck carrier, and from the United States importer, or its Customs broker, if they choose to do so, certain information concerning the incoming cargo. Except as provided for BRASS and CAFES under the previous section concerning ''Interim Measures,'' CBP must receive such cargo information by means of a CBP-approved electronic

data interchange system no later than either 30 minutes (for FAST) or 1 hour (for PAPS and ABI in-bond reporting) prior to the carrier's arrival at a United States port of entry.

Foreign Cargo Transiting the United States

For foreign cargo transiting the United States in-bond, as an interim measure, CBP intends to employ CAFES or ABI in-bond reporting when either of these systems is available at the given port of arrival. In addition, any foreign cargo arriving by truck for transportation in transit across the United States would be subject to the advance electronic information filing requirement for incoming cargo when the Truck Manifest module in the Automated Commercial Environment (ACE) is implemented and made mandatory at the port of arrival. This reporting requirement for in-transit cargo would include foreign cargo being transported by truck from one foreign country to another (19 CFR 123.31(a)), and cargo being transported from point to point in the same foreign country (19 CFR 123.31(b); and 19 CFR 123.42). Further, cargo that is to be unladen from the arriving truck and entered, in bond, for exportation, or for transportation and exportation, in another vehicle or conveyance would also be subject to this advance electronic information filing requirement, either under CAFES or ABI in-bond reporting, or under ACE when it is implemented and made mandatory at the port of arrival. However, as previously observed, the implementation of ACE will be the subject of a future **Federal Register** notice.

Exemptions; Domestic Cargo Transiting Foreign Country; Certain Informal Entries

By contrast, domestic cargo transported by truck to one port from another in the United States by way of a foreign country (19 CFR 123.21; and 19 CFR 123.41) is not subject to the advance electronic filing requirement for incoming cargo. However, such information may be electronically transmitted in advance to CBP, if desired, when the electronic cargo information system is made available at the port of arrival.

Similarly, the following merchandise would be exempt from the advance cargo information reporting requirements under this proposed rule, to the extent that such merchandise qualifies for informal entry pursuant to part 143, subpart C, Customs Regulations (19 CFR part 143, subpart C): (1) Merchandise which may be informally entered on Customs Form (CF) 368 or 368A (cash collection or receipt); (2) Goods, unconditionally or conditionally free, not exceeding $2,000 in value, that are eligible for entry under CF 7523; and (3) Products of the United States being returned, for which entry is prescribed on CF 3311. In these instances, the paper entry document alone would serve as both the manifest and entry.

Affected Parties

The incoming truck carrier must present the required commodity and transportation information in advance to CBP electronically via the CBP-approved electronic data interchange, currently through FAST, PAPS, BRASS (modified as necessary), CAFES or ABI in-bond reporting, and, when available, through ACE. However, the United States importer, or its Customs broker, if choosing to do so, may instead electronically submit to CBP, within the designated time period, that portion of the required information that it possesses in relation to the cargo. Where the importer, or broker, elects to file a portion of the cargo information, the carrier would be responsible for timely presenting to CBP the remainder of the required data.

Specific Information Required

The cargo data elements that would need to be presented electronically to CBP, on an interim basis, are those data elements that are currently required under FAST. The anticipated data elements for electronic submission under ACE have not been completely finalized yet. The data elements that would be required under ACE will be identified at a future date pursuant to a future **Federal Register** notice.

Accordingly, the following commodity and transportation information, as applicable, would have to be electronically transmitted to and received by CBP for all required incoming cargo arriving in the United States by truck, to the extent that the particular CBP-approved electronic data interchange system employed can accept this information:

(1) Conveyance number, and (if applicable) equipment number (the number of the conveyance is its Vehicle Identification Number (VIN) or its license plate number and state of issuance; the equipment number, if applicable, refers to the identification number of any trailing equipment or container attached to the power unit);

(2) Carrier identification (this is the truck carrier identification SCAC code (the unique Standard Carrier Alpha Code) assigned for each carrier by the National Motor Freight Traffic Association; see 19 CFR 4.7a(c)(2)(iii));

(3) Trip number and, if applicable, the transportation reference number for each shipment (the transportation reference number is the freight bill number, or Pro Number, if such a number has been generated by the carrier);

(4) Container number(s) (for any containerized shipment) (if different from the equipment number), and the seal numbers for all seals affixed to the equipment or container(s);

(5) The foreign location where the truck carrier takes possession of the cargo destined for the United States;

(6) The scheduled date and time of arrival of the truck at the first port of entry in the United States;

(7) The numbers and quantities for the cargo laden aboard the truck as contained in the bill(s) of lading (this means the quantity of the lowest external packaging unit; containers and pallets do not constitute acceptable information; for example, a container holding 10 pallets with 200 cartons should be described as 200 cartons);

(8) The weight of the cargo, or, for a sealed container, the shipper's declared weight of the cargo;

(9) A precise description of the cargo or the Harmonized Tariff Schedule (HTS) numbers to the 6-digit level under which the cargo will be classified (Generic descriptions, specifically those such as FAK (''freight of all kinds''), ''general cargo,'' and ''STC'' (''said to contain'') are not acceptable);

(10) Internationally recognized hazardous material code when such cargo is being shipped by truck;

(11) The shipper's complete name and address, or identification number, from the bill(s) of lading (this is the actual shipper (the owner and exporter) of the cargo from the foreign country; the identification number will be a unique number to be assigned by CBP upon the implementation of the Automated Commercial Environment); and

(12) The complete name and address of the consignee, or identification number, from the bill(s) of lading (this is the party to whom the cargo will be delivered in the United States, with the exception of ''FROB'' (Foreign Cargo Remaining On Board); the identification number will be a unique number assigned by CBP upon implementation of the Automated Commercial Environment).

Transition/Timetable for Compliance

The incoming truck carrier and, if electing to do so, the United States importer, or its Customs broker, must present the advance electronic cargo

data to CBP, as discussed above, at the particular port of entry where the truck will arrive in the United States on and after 90 days from the date that CBP has published a notice in the **Federal Register** informing affected carriers that:

(1) The approved data interchange is in place and fully operational at that port; and

(2) The carrier must commence the presentation of the required advance cargo information through the approved system.

Comments; Cargo Departing From the United States; All Modes

The following comments were received regarding the electronic submission of cargo data for outbound shipments.

Setting Transmittal Times for Electronically Presenting Information

Comment

The time frames proposed by Customs were too long, would significantly impede or eliminate Just-in-Time (''JIT'') business practices, and impede or eliminate express shipping services.

CBP Response

The pre-departure filing time frames set forth in this proposed rule for export cargo information reporting are far shorter than the 24-hour period prior to lading that was included in the ''strawman'' proposals. As previously indicated, the time frames set forth in the ''strawman'' proposals were only intended to stimulate feedback from the trade, for consideration by CBP in formulating time frames for presenting the required cargo data under this proposed rule. The time frames proposed in this rule, discussed in further detail below, range from 24 hours prior to departure for vessels to not later than 1 hour prior to departure for trucks.

In determining the time frames for the advance reporting of information for outbound cargo in this proposed rule, CBP considered existing commercial practices. The CBP also took into account the minimum amount of time necessary to perform automated targeting and analysis and to request further information about the cargo or to schedule its examination, in the event that a shipment were identified as being potentially high-risk. The CBP also considered the different threats to the United States and others posed by outbound shipments. It is anticipated that these time frames are sufficiently abbreviated that there will be no palpable impact on ''JIT'' business/inventory practices.

Comment

The reporting time frames should be based on when the electronic filer transmits the information, as opposed to when the Government-administered automated system verifies the receipt of the transmitted information.

CBP Response

There is no mechanism in the approved electronic data interchange system (currently, the Automated Export System (AES)) for capturing the date and time of submission by the filer. The time of receipt is quantified by the time that an Internal Transaction Number (ITN) is generated, and the system records this date and time.

The AES has an Office of Management and Budget (OMB) performance measure for 2003 which sets the goal of monitoring and tuning trade processing to maintain the average monthly percent of filer transmissions with a turnaround time below one minute at 95%. The AES consistently meets this new performance measure. The CBP cannot monitor compliance and/or perform enforcement based on the date and time of submission by the filer.

Load/No Load Messages

Comment

The trade expressed the need for both a ''No Load'' message, and an ''OK to Load'' message for both imports and exports.

CBP Response

The CBP sees ''No Load'' situations for exports as an extremely infrequent occurrence. Therefore, a constant stream of ''OK to Load'' messages would not be useful to the export process.

The AES Commodity module, which will be used to meet the Trade Act mandate, currently does not have the capability to provide an automated ''No Load'' or ''Hold'' message to the carrier. The AES Commodity module does provide feedback to the United States Principal Party in Interest (USPPI) or its authorized filing agent in the form of warning messages for data inconsistencies as well as for data errors in cases where the system cannot accept the data as transmitted. (The CBP will use the term ''USPPI,'' as defined in 15 CFR part 30; the term ''Exporter'' will not be used again in this document.) A ''No Load'' message transmitted to the USPPI or its filing agent is not the most efficient notification path for denying lading to a specific shipment. A ''No Load'' message will be feasible when export manifest modules for all modes are in place in AES.

At the time of promulgation of a final rule in this matter, automated manifest options will not be available for air, truck, and rail modes in AES. For the purposes of this rulemaking, pursuant to the Trade Act of 2002, CBP has determined that the option of waiting for the availability of automated export manifest systems in AES does not meet the intent of the Trade Act to improve cargo safety and security in the near term. Accordingly, should export manifest modules not be available upon the effective date of a final rule in this matter, CBP proposes to collect the following 6 transportation data elements for outbound cargo, which should otherwise be readily known to the USPPI or its authorized agent, as further discussed, *infra:* Mode of transportation; Carrier identification; Conveyance name; Country of ultimate destination; Estimated date of exportation; and Port of exportation.

Exemptions; Retention of Post-Departure Filing

Comment

The trade strongly supported retaining the Option 4 Post-Departure filing privilege.

CBP Response

The CBP supports a structured system of exemptions and/or pre-approval programs that recognize the varying degrees of risk associated with export shipments and the different threats posed to the United States and others by such shipments. Given the differences in in-bond and export shipments, a limited post-departure filing option may be appropriate for certain types of export shipments. The CBP will work with the Bureau of Census and the trade in designing these programs, building upon current initiatives such as AES Option 4, the Customs-Trade Partnership Against Terrorism (C–TPAT), and the Transportation Security Administration's (TSA's) ''Known Shipper'' Program. The C–TPAT is a joint government-business initiative designed to enhance security procedures over the entire supply chain of incoming cargo while improving the flow of trade. In return for tightening the security of their supply chains, C–TPAT participants can get their cargo processed through CBP faster.

At the present time, while not exempting any USPPI from the advance pre-departure cargo information reporting requirements, this rulemaking supports post-departure reporting by highly compliant exporters. The CBP and Census will develop and implement

changes to post-departure reporting jointly, and as appropriate.

Comment

The trade indicated a need for priority/exemption for a range of commodities and transaction types. Examples of commodities proposed for exemption were bulk cargo, perishables, and human organs/perishable medical products. Related or ''twin plant'' shipments were also suggested as candidates for exemption.

CBP Response

The CBP is not planning to eliminate exemptions or pre-approval programs in regulations promulgated pursuant to the Trade Act. The CBP agrees with the exemption of select export shipments such as human organs, perishable medical supplies, and emergency humanitarian aid. As such, the scope of future exemptions and the requirements for participation in low-risk exporter programs for reporting export commodity data will be determined jointly by CBP and Census.

Internal Transaction Number; External Transaction Number

Comment

The External Transaction Number (XTN) was preferred by most of those who commented. The XTN is generated by the USPPI or its authorized agent who transmits the electronic data. At the same time, some support in the trade community was expressed for the Internal Transaction Number (ITN), and there was near unanimity that CBP should not require reporting of both numbers. The ITN is the AES system-generated number that indicates that the transmission of required export cargo information has been received and accepted through the system.

CBP Response

The preference for the XTN is understandable, but because an XTN can be generated and annotated on export documents without transmitting shipment data to AES, the XTN is susceptible to abuse. This assertion is supported by a 60-day AES exemption statement survey conducted by CBP during the summer of 2002. Then Customs (now CBP) field locations nationwide audited over 13,000 AES exemption statements and found 25% to be invalid at the time of export. Therefore, CBP's position will be to require that the ITN number be annotated on the appropriate export documents for shipments which require full pre-departure reporting. However, CBP wishes to especially emphasize in this regard that the annotation of the ITN number on any export documentation will not be required or enforced until the implementation of the redesign of the AES commodity module, which is anticipated to be completed in mid 2004.

The ITN provides a link to a create date and time for the record in AES from which to verify compliance with pre-departure filing requirements. The ITN is also consistent in format, starting with an ''X'', followed by an 8-position date (century, year, month, day) and a 6-position sequential number that is assigned by the AES system. In addition, the AES mainframe typically returns the ITN in less than one minute.

By contrast, External Transaction Numbers (XTNs) consist of the 9-digit electronic filer identification and a Shipment Reference Number (SRN) that are separated by a hyphen. The SRN may contain up to 17 letters, numbers and symbols, allowing for a longer format with more variability than the ITN.

The CBP notes that ITNs will not be required for shipments authorized for post-departure (currently AES Option 4) reporting of export cargo information. The post-departure filing citation annotated on export documentation will continue to conform to approved formats contained in the Bureau of Census Foreign Trade Statistics Regulations (FTSR) (15 CFR part 30).

The CBP recognizes conditions under which ITNs will not be available due to a failure of an automated system. Procedures for dealing with system downtime—where the Government's electronic system and/or the USPPI's system for receiving and processing export cargo data fails—will be detailed in the Automated Export System Trade Interface Requirements handbook (AESTIR), and any successor publication. The AESTIR is available on the CBP Web site (*http://www.cbp.gov*).

Overview; Cargo Departing From the United States; All Modes

Outward Cargo Information Reporting; System To Be Used

To ensure the safety and security of cargo that would be sent from the United States, as mandated by section 343(a), as amended, CBP would use the existing approved electronic data interchange system for receiving export commodity data from the United States Principal Party in Interest (USPPI). The current system being used for this purpose is called the Automated Export System (AES).

The CBP has elected, in consultation and cooperation with the Bureau of Census, to utilize the commodity module of the AES (the automated Shipper's Export Declaration), to meet the mandate of the Trade Act. At such time as automated manifest modules are available for all modes, these enhanced capabilities will be reviewed to determine additional compliance with the Trade Act of 2002.

This is a considered decision recognizing that at the time of promulgation of the final rule under section 343(a), as amended, the filing of export data via the AES will not be mandatory. In short, it is intended that the final rule in this matter for the advance filing of cargo information for all reportable outbound shipments not be implemented until Bureau of Census regulations under the Security Assistance Act (Pub. L. 107–228) are implemented.

Since the inception of AES, the elimination of the paper Shipper's Export Declaration (SED) has been the ultimate goal, and with the passage of the Security Assistance Act, the Bureau of Census has the authority to mandate the electronic filing of all reportable export shipments, with promulgation of regulations planned for mid 2004. Prior to mandatory electronic filing for all reportable export shipments, the Department of Commerce, Bureau of Census, will publish a rule requiring mandatory electronic reporting for commodities on the Commerce Control List (CCL), and U.S. Munitions List (USML), planned for the summer of 2003.

The CBP, however, does intend to accomplish several things with this rulemaking:

(1) Articulate a commitment to strengthening export reporting processes in concert with external agency partners such as the Department of Commerce (the Bureau of Census and the Bureau of Industry and Security), the Department of State (the Directorate of Defense Trade Controls), the Department of Treasury (Office of Foreign Assets Control), the Department of Transportation, the Drug Enforcement Administration, and the Environmental Protection Agency;

(2) Establish time frames for automated reporting that will support targeting for high risk exports and allow CBP or other Government agencies to respond prior to export; and

(3) Establish the system generated Internal Transaction Number as *the* accepted proof of automated filing, for all reportable exports not eligible for exemption.

Utilizing the automated SED within the AES combined with mandatory filing under Census complies with the intent of the Trade Act to collect

advance cargo information electronically from the party with the best knowledge of that information. Under current automated practices, the USPPI or its authorized agent has the capability to transmit export information electronically, and with limited exceptions, has knowledge of the data transmitted.

Time Frames for Presenting Information

A USPPI, or its authorized agent, participating in advance cargo information filing would have to present export cargo information through the AES commodity module for outbound shipments, as follows:

(1) For vessel cargo, the participating USPPI or its authorized agent must transmit and verify system acceptance of export vessel cargo information *no later than 24 hours prior to the departure of the vessel;*

(2) For air cargo, including cargo being transported by Air Express Couriers, the participating USPPI or its authorized agent must transmit and verify system acceptance of export air cargo information *no later than 2 hours prior to the scheduled departure time of the aircraft;*

(3) For truck cargo, including cargo departing by Express Consignment Courier, the participating USPPI or its authorized agent must present and verify system acceptance of export truck cargo information *no later than 1 hour prior to the arrival of the truck at the border;* and

(4) For rail cargo, the participating USPPI or its authorized agent must transmit and verify system acceptance of export rail cargo information *no later than 4 hours prior to the time at which the engine is attached to the train to go foreign.*

The preceding time frames are provided by CBP as minimum guidelines. All parties involved in export transactions should be advised that filing electronic cargo information as far in advance as practicable reduces the need for CBP to delay export of that cargo to complete any screening or examinations deemed to be necessary.

The foregoing time frames for reporting information about outbound vessel, air, truck and rail cargo only apply to shipments without an export license, that require full pre-departure reporting of shipment data, in order to comply with the advance cargo information filing requirements under section 343(a), as amended. The USPPI or its authorized agent may refer to proposed § 192.14(e) for specific guidance concerning the effective date for the time frames detailed herein. Requirements placed on exports controlled by other Government agencies will remain in force unless changed by the agency having the regulatory authority to do so. The CBP will also continue to require a 72-hour advance notice for vehicle exports pursuant to 19 CFR 192.2(c)(1) and (c)(2)(i). The USPPI or its authorized agent should refer to the relevant titles in the Code of Federal Regulations for the pre-filing requirements of other Government agencies.

Electronic Filer of Export Cargo Information; Proposed Requirements

The USPPI, or its authorized agent, who participates in reporting export data electronically via the commodity module (the automated Shipper's Export Declaration) of the AES, would continue to transmit and verify that such data had been accepted through the system, but would have to do so no later than the time, in advance of departure, prescribed for each mode of transportation under this proposed rule. The USPPI or its authorized agent may refer to proposed § 192.14(e) for specific information concerning effective dates for procedures outlined herein.

Since the AES Commodity Module already captures the requisite export data, and to avoid redundancy with existing export reporting requirements, no new commodity or transportation data elements would need to be required under section 343(a), as amended. Specifically, the export cargo information collected from USPPIs or their authorized agents is contained in the Bureau of Census electronic Shipper's Export Declaration (SED) that is presented to CBP through the AES. Those export commodity data elements that are required to be reported electronically through AES are also found in § 30.63 of the Bureau of Census Regulations (15 CFR 30.63). The required transportation data elements are defined below in accordance with 15 CFR 30.63.

1. *Mode of transportation.* The mode of transportation is defined as that by which the goods are exported or shipped (vessel, air, rail, or truck).

2. *Carrier identification.* The USPPI or its authorized agent should reasonably be expected to know the identification of the carrier that would actually be transporting the merchandise out of the United States. For vessel, rail and truck shipments, the unique carrier identifier would be its 4-character Standard Carrier Alpha Code (SCAC); for aircraft, this identifier would be the 2- or 3-character International Air Transport Association (IATA) code.

3. *Conveyance name.* The conveyance name would be the name of the carrier (for sea carriers, the name of the vessel; for others, the carrier name).

4. *Country of ultimate destination.* This is the country as known to the USPPI or its authorized agent at the time of exportation, where the cargo is to be consumed or further processed or manufactured. This country would be identified by the 2-character International Standards Organization (ISO) code for the country of ultimate destination.

5. *Estimated date of exportation.* The participating USPPI or its authorized agent must report the date the cargo is scheduled to leave the United States for all modes of transportation. If the actual date is not known, the participating USPPI or authorized agent must report the best estimate as to the time of departure.

6. *Port of exportation.* The port of exportation would be designated by its unique code, as set forth in Annex C, Harmonized Tariff Schedule of the United States (HTSUS).

Identifying High-Risk Shipments

The CBP finds that the data elements that the USPPI would have to timely present through AES covering both the commodity and transportation information for outbound cargo should prove to be sufficient for identifying and targeting potentially high-risk shipments. For outbound cargo that CBP has identified as high-risk, the carrier, after being duly notified by CBP, would be responsible for delivering the cargo for inspection/examination; if the cargo identified as high-risk had already departed, CBP would exercise its authority to demand that the cargo be redelivered (*see* 19 CFR 113.64(g)(2)).

Notably, in the case of outbound cargo, identifying high-risk shipments would principally be concerned with interdicting any attempted illegal export of technology, and associated goods and materials, that could be employed by terrorist organizations abroad in the construction of weapons of mass destruction (WMDs), such as nuclear and radiological dispersal devices (''dirty bombs''), that would be intended ultimately for use either here in the United States or in another country.

Proposed Requirement; Carrier Data

The CBP has made a prudent judgment that the transportation data, along with the commodity data (both collected in the AES Commodity Module), that CBP proposes to require from the participating USPPI or its authorized agent, would be sufficient for effective targeting and risk assessment under section 343(a), as amended.

Additional information for outward cargo is not readily available in advance of departure because exporting carriers, who have direct knowledge of this information, generally do not now have the electronic capability to furnish cargo data through AES. Specifically, there are no carrier manifest modules in AES, except for the vessel carrier module which is voluntary and does not yet include the capability to receive cargo data directly from Non Vessel Operating Common Carriers (NVOCCs). Therefore, implementation of mandatory automated cargo data processes for vessel operators in the absence of other such modules would create uneven requirements within and across modes of transportation.

Conversely, to presently obligate USPPIs or their authorized agents to transmit transportation data additional to that which is collected in the AES Commodity Module would be impracticable because such information would not necessarily otherwise be obtainable in a timely enough manner to meet the proposed advance electronic reporting procedures; this would inevitably delay and disrupt the movement of cross-border traffic.

Against this overall backdrop, therefore, CBP has concluded that its proposal to require pre-existing data elements for outward cargo represents a sound and sensible initial step in establishing a solid informational bulwark against threats to cargo safety and security, and one which would not adversely impact or impinge upon the flow of cross-border commerce.

To this end, and pursuant to Bureau of Census regulations that are due to be issued next year, the current AES system is to be upgraded and reprogrammed so as to enable, and require, that USPPIs or their authorized agents transmit, verify acceptance and annotate an ITN (unless otherwise exempt from pre-departure filing) on export documents presented to the exporting carrier in accordance with the time frames and procedures outlined in this rule. Nevertheless, CBP and the exporting trade agree with the advisability of creating carrier manifest modules in AES or a successor system that would facilitate the reporting of additional cargo information for outbound cargo.

Complete transportation data from exporting carriers would be collected for every export shipment when CBP has the system capabilities set up to receive this data directly from carriers. Once this requisite technology is approved and incorporated into an automated system, CBP will then review these new capabilities to determine additional compliance with the Trade Act of 2002. The CBP would then propose its own regulations in the **Federal Register** calling for exporting carriers, in advance of departure, to electronically file their outward cargo information with CBP through the approved system.

Proof of Electronic Filing; System Verification of Data Acceptance

For each export shipment to be laden, the participating USPPI, or its authorized agent, must furnish to the outbound carrier a proof of electronic filing citation covering the cargo to be laden, for annotation on the outward manifest, waybill, or other export documentation when cargo information is reported electronically; in the alternative, the USPPI, or authorized agent, would be responsible for providing to the exporting carrier an appropriate low-risk exporter citation (currently Option 4) or an exemption statement for the cargo. The carrier may not load cargo without the related electronic filing citation (*e.g.,* the ITN), low-risk exporter citation, or an appropriate exemption statement.

The proof of electronic filing citation, low-risk exporter citation, or exemption statement, will conform to the approved formats found in the Bureau of Census Foreign Trade Statistics Regulations (FTSR) (15 CFR part 30), or on the Census Web site (*http://www.census.gov/foreign-trade/regulations/index.html*).

When successfully transmitting cargo data for a shipment through the system, the USPPI or its authorized agent will receive a system-generated confirmation number, known as an Internal Transaction Number (ITN), which constitutes verification that the data transmitted has been accepted by the system. For transmitted data that passes system edits, the current approved electronic data interchange (AES) returns this confirmation number routinely in less than one minute. This enables CBP to base the monitoring and enforcement of the time frames on the actual time of receipt (of the data) rather than on its transmission, which cannot be quantified. When the redesign of the AES commodity module is in place, the proof of export filing citation will need to include the ITN.

Exemptions From Reporting Requirements

Exemptions from reporting requirements for certain cargo are under the authority of the Bureau of Census (15 CFR 30.50 through 30.58). The proposed CBP regulations under section 343(a), as amended, would likewise encompass these exemptions.

Transition Period; Implementation

For successfully targeting potentially high-risk export commodity shipments, CBP supports the employment of current AES systems that are already heavily in use and widely available to USPPIs. With Internet connections, as noted, AES allows new USPPIs that are relatively small businesses, to be brought into the system fairly easily and inexpensively. To this end, the proposed regulations for the specified pre-departure reporting of cargo commodity and transportation information for outbound shipments, together with the requirement of the ITN, would be implemented concurrent with the completion of the redesign of the AES commodity module and the implementation of mandatory filing regulations by the Department of Commerce pursuant to Public Law 107–228.

Future Rulemaking Regarding Related Laws

Waterborne Cargo; Section 343(b), Trade Act of 2002

Section 343(b), Trade Act of 2002, as amended (codified at 19 U.S.C. 1431a), requiring proper documentation for all cargo to be exported by vessel, will be the subject of a separate publication in the **Federal Register**.

Transportation Security Administration—Cargo Security Programs

It is also stressed that the final regulations that will be issued to implement section 343(a), as amended, may, in the foreseeable future, be subject to modification as necessary to accommodate a cargo security program that may be developed by the Transportation Security Administration (TSA) in accordance with the Aviation and Transportation Security Act (Public Law 107–71,115 Stat. 597; November 19, 2001) (49 U.S.C. 114(d), (f)(10); 44901(a), (f)).

Comments

Before adopting these proposed amendments, consideration will be given to any written comments that are timely submitted to Customs and Border Protection (CBP). The CBP specifically requests comments on the clarity of the proposed rule and how it may be made easier to understand. Comments are especially requested as to the sufficiency of the explanations that accompany the proposed data elements, as well as the impact on small business entities under the Regulatory Flexibility Act. Comments submitted will be available for public inspection in

accordance with the Freedom of Information Act (5 U.S.C. 552), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), at the Bureau of Customs and Border Protection, 799 9th Street, NW., Washington, D.C. during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

Regulatory Flexibility Act and Executive Order 12866

Customs and Border Protection (CBP) has conducted an economic analysis to determine whether the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) would apply to this rulemaking. It has been determined, as a result of the *initial* analysis conducted, that this proposed rule would not have a significant economic impact upon a substantial number of small entities as required by the RFA. This economic analysis is attached as an Appendix to this document. For the reasons set forth in the analysis, the agency does not make a certification at this time with regard to the regulatory requirements of 5 U.S.C. 603 and 604. Also, this rule is a ''significant regulatory action'' under Executive Order (E.O.) 12866 and has been reviewed by the Office of Management and Budget in accordance with that E.O. However, it is our preliminary determination that the proposed rule would not result in an ''economically significant regulatory action'' under E.O. 12866, as regards the impact on the national economy.

Paperwork Reduction Act

The collection of information in this document is contained in §§ 4.7a, 122.48a, 123.91, 123.92, and 192.14. Under these sections, the information would be required and used to determine the safety and security conditions under which cargo to be brought into or sent from the United States was maintained prior to its arrival or departure. The likely respondents and/or recordkeepers are air, truck, rail and vessel carriers, Non Vessel Operating Common Carriers (NVOCCs), freight forwarders, deconsolidators, express consignment facilities, importers, exporters, and Customs brokers. The collection of information encompassed within this proposed rule has been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

Estimated annual reporting and/or recordkeeping burden: 2,299,640 hours.

Estimated average annual burden per respondent/recordkeeper: 52.3 hours.

Estimated number of respondents and/or recordkeepers: 43,960.

Estimated annual frequency of responses: 14,297,259.

Comments on this collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer of the Department of Homeland Security, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Washington, DC 20229. Comments should be submitted within the time frame that comments are due on the substance of the proposal.

Comments are invited on: (a) Whether the collection 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 collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or startup costs and costs of operations, maintenance, and purchase of services to provide information.

Part 178, Customs Regulations (19 CFR part 178), containing the list of approved information collections, would be revised to add appropriate references to the above-cited regulatory sections, upon the adoption of the proposal as a final rule.

List of Subjects

19 CFR Part 4

Administrative practice and procedure, Arrival, Cargo vessels, Common carriers, Customs duties and inspection, Declarations, Entry, Exports, Foreign commerce and trade statistics, Freight, Imports, Inspection, Maritime carriers, Merchandise, Penalties, Reporting and recordkeeping requirements, Shipping, Vessels.

19 CFR Part 103

Administrative practice and procedure, Computer technology, Confidential business information, Electronic filing, Freedom of information, Reporting and recordkeeping requirements.

19 CFR Part 113

Air carriers, Bonds, Common carriers, Customs duties and inspection, Exports, Foreign commerce and trade statistics, Freight, Imports, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 122

Administrative practice and procedure, Advance notice of arrival, Advance notice requirements, Air cargo, Air cargo manifest, Air carriers, Aircraft, Air transportation, Commercial aircraft, Customs duties and inspection, Entry procedure, Foreign commerce and trade statistics, Freight, Imports, Penalties, Reporting and recordkeeping requirements, Security measures.

19 CFR Part 123

Administrative practice and procedure, Aircraft, Canada, Common carriers, Customs duties and inspection, Entry of merchandise, Freight, Imports, International traffic, Mexico, Motor carriers, Railroads, Reporting and recordkeeping requirements, Vehicles, Vessels.

19 CFR Part 192

Administrative practice and procedure, Aircraft, Customs duties and inspection, Exports, Foreign trade statistics, Law enforcement, Motor vehicles, Reporting and recordkeeping procedures, Vehicles, Vessels.

Proposed Amendments to the Regulations

It is proposed to amend parts 4, 103, 113, 122, 123, and 192, Customs Regulations (19 CFR parts 4, 103, 113, 122, 123, and 192), as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4 would be revised, and the relevant specific authority citations would continue, to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. App. 3, 91;

* * * * *

Section 4.7 also issued under 19 U.S.C. 1581(a); 46 U.S.C. App. 883a, 883b;

* * * * *

Section 4.61 also issued under 46 U.S.C. App. 883;

* * * * *

2. Amend § 4.7 by:

a. Revising the first sentence of paragraph (b)(1);

b. Revising paragraph (b)(2);

c. Removing the words, ''if automated'', where appearing in paragraph (b)(3)(i);

d. Adding a new paragraph (b)(3)(iii); and

e. Adding a new paragraph (b)(5).

The revisions and additions would read as follows:

§ 4.7 Inward foreign manifest; production on demand; contents and form; advance filing of cargo declaration.

* * * * *

(b)(1) With the exception of any Cargo Declaration that has been filed in advance as prescribed in paragraph (b)(2) of this section, the original and one copy of the manifest must be ready for production on demand. * * *

(2) Subject to the effective date provided in paragraph (b)(5) of this section, and with the exception of any vessel exclusively carrying bulk or authorized break bulk cargo as prescribed in paragraph (b)(4) of this section, Customs and Border Protection (CBP) must receive from the incoming carrier, for any vessel covered under paragraph (a) of this section, the CBP-approved electronic equivalent of the vessel's Cargo Declaration (Customs Form 1302), 24 hours before the cargo is laden aboard the vessel at the foreign port (see § 4.30(n)(1)). The current approved system for presenting electronic cargo declaration information to CBP is the Vessel Automated Manifest System (AMS).

* * * * *

(3) * * *

(iii) Where the party electronically presenting to CBP the cargo information required in § 4.7a(c)(4) receives any of this information from another party, CBP will take into consideration how, in accordance with ordinary commercial practices, the presenting party acquired such information, and whether and how the presenting party is able to verify this information. Where the presenting party is not reasonably able to verify such information, CBP will permit the party to electronically present the information on the basis of what the party reasonably believes to be true.

* * * * *

(5) Within 90 days of [the publication of this paragraph as a final rule in the **Federal Register**], all ocean carriers, and NVOCCs electing to participate, must be automated on the Vessel AMS system at all ports of entry in the United States where their cargo will initially arrive.

* * * * *

3. Amend § 4.7a by:

a. Revising paragraphs (c)(4)(viii) and (c)(4)(ix);

b. Removing the word ''and'' after paragraph (c)(4)(xiii); and

c. Adding new paragraphs (c)(4)(xv) and (c)(4)(xvi).

The revisions and additions would read as follows:

§ 4.7a Inward manifest; information required; alternative forms.

* * * * *

(c) *Cargo Declaration.* * * *

(4) * * *

(viii) The shipper's complete name and address, or identification number, from all bills of lading. (At the master bill level, for consolidated shipments, the identity of the Non Vessel Operating Common Carrier (NVOCC), freight forwarder, container station or other carrier is sufficient; for non-consolidated shipments, and for each house bill in a consolidated shipment, the identity of the actual shipper (the owner and exporter) of the cargo from the foreign country is required; the identification number will be a unique number assigned by CBP upon the implementation of the Automated Commercial Environment);

(ix) The complete name and address of the consignee, or identification number, from all bills of lading. (For consolidated shipments, at the master bill level, the NVOCC, freight forwarder, container station or other carrier may be listed as the consignee. For non-consolidated shipments, and for each house bill in a consolidated shipment, the consignee is the party to whom the cargo will be delivered in the United States, with the exception of ''FROB''. However, in the case of cargo shipped ''to order of [a named party],'' the carrier must report this named ''to order'' party as the consignee; and, if there is any other commercial party listed in the bill of lading for delivery or contact purposes, the carrier must also report this other commercial party's identity and contact information (address/phone number) in the ''Notify Party'' field of the advance electronic data transmission to CBP, to the extent that the CBP-approved electronic data interchange system is capable of receiving this data. The identification number will be a unique number assigned by CBP upon implementation of the Automated Commercial Environment);

* * * * *

(xv) Date of departure from foreign, as reflected in the vessel log; and

(xvi) Time of departure from foreign, as reflected in the vessel log.

* * * * *

4. Amend § 4.61 by adding a new paragraph (c)(24) to read as follows:

§ 4.61 Requirements for clearance.

* * * * *

(c) *Verification of compliance.*

* * * * *

(24) Electronic receipt of required vessel cargo information (see 192.14(c) of this chapter).

* * * * *

PART 103—AVAILABILITY OF INFORMATION

1. The general authority citation for part 103 would continue, and a specific authority citation would be added for § 103.31a in appropriate numerical order, to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 19 U.S.C. 66, 1624; 31 U.S.C. 9701;

* * * * *

Section 103.31a also issued under 19 U.S.C. 2071 *note;*

* * * * *

2. Amend subpart C of part 103 by adding a new § 103.31a to read as follows:

§ 103.31a Advance electronic information for air, truck, and rail cargo.

Advance cargo information that is electronically presented to Customs and Border Protection (CBP) for inbound or outbound air, rail, or truck cargo in accordance with § 122.48a, 123.91, 123.92, or 192.14 of this chapter, is per se exempt from disclosure under § 103.12(d), unless CBP receives a specific request for such records pursuant to § 103.5, and the owner of the information expressly agrees in writing to its release.

PART 113—CUSTOMS BONDS

1. The authority citation for part 113 would continue to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

2. Amend § 113.62 by:

a. Revising the heading of paragraph (j), and redesignating its current text as paragraph (j)(1);

b. Adding a new paragraph (j)(2); and

c. Revising paragraph (l)(1) by adding the citation, ''(j)(2),'', after the citation, ''(i),''.

The revision and addition to paragraph (j) read as follows:

§ 113.62 Basic importation and entry bond conditions.

* * * * *

(j) *Agreement to comply with electronic entry and/or advance cargo information filing requirements.* (1) * * *

(2) If the principal elects to provide advance inward air or truck cargo information to Customs and Border Protection (CBP) electronically, the principal agrees to provide such cargo information to CBP in the manner and

in the time period required, respectively, under § 122.48a or 123.92 of this chapter. If the principal defaults with regard to these obligations, the principal and surety (jointly and severally) agree to pay liquidated damages of $5,000 for each regulation violated.

* * * * *

3. Amend § 113.64 by revising the first sentence of paragraph (a); and by revising paragraph (c) to read as follows:

§ 113.64 International carrier bond conditions.

(a) *Agreement to Pay Penalties, Duties, Taxes, and Other Charges.* If any vessel, vehicle, or aircraft, or any master, owner, or person in charge of a vessel, vehicle or aircraft, slot charterer, or any non-vessel operating common carrier as defined in § 4.7(b)(3)(ii) of this chapter or other party as specified in § 122.48a(c)(2) of this chapter, incurs a penalty, duty, tax or other charge provided by law or regulation, the obligors (principal and surety, jointly and severally) agree to pay the sum upon demand by Customs and Border Protection (CBP). * * *

* * * * *

(c) *Non-vessel operating common carrier (NVOCC); other party.* If a slot charterer, non-vessel operating common carrier (NVOCC) as defined in § 4.7(b)(3)(ii) of this chapter, or other party specified in § 122.48a(c)(2) of this chapter, elects to provide advance cargo information to CBP electronically, the NVOCC or other party, as a principal under this bond, in addition to compliance with the other provisions of this bond, also agrees to provide such cargo information to CBP in the manner and in the time period required under those respective sections. If the NVOCC or other party, as principal, defaults with regard to these obligations, the principal and surety (jointly and severally) agree to pay liquidated damages of $5,000 for each regulation violated.

* * * * *

PART 122—AIR COMMERCE REGULATIONS

1. The general authority citation for part 122 would be revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

* * * * *

2. Amend § 122.12 by revising the heading of paragraph (c) and adding a sentence at the end of paragraph (c) to read as follows:

§ 122.12 Operation of international airports.

* * * * *

(c) *FAA rules; denial of permission to land.* * * * In addition, except in the case of an emergency or forced landing (*see* § 122.35), permission to land at an international airport may be denied if advance electronic information for incoming foreign cargo aboard the aircraft has not been received as provided in § 122.48a.

* * * * *

3. Amend § 122.14 by:

a. Redesignating paragraphs (d)(4) and (d)(5) as paragraphs (d)(5) and (d)(6), respectively;

b. Adding a new paragraph (d)(4); and

c. Revising newly redesignated paragraph (d)(5).

The addition and revision would read as follows:

§ 122.14 Landing rights airport.

* * * * *

(d) *Denial or withdrawal of landing rights.* * * *

(4) Advance cargo information has not been received as provided in § 122.48a;

(5) Other reasonable grounds exist to believe that Federal rules and regulations pertaining to safety, including cargo safety and security, and Customs, or other inspectional activities have not been followed; or

* * * * *

4. Amend § 122.33 by:

a. Revising paragraph (a), introductory text; and

b. Revising paragraph (a)(1).

The revisions read as follows:

§ 122.33 Place of first landing.

(a) The first landing of an aircraft entering the United States from a foreign area will be:

(1) At a designated international airport (*see* § 122.13), provided that permission to land has not been denied pursuant to § 122.12(c);

* * * * *

5. Amend § 122.38 by:

a. Adding a sentence at the end of paragraph (c); and

b. Adding a new paragraph (g).

The additions would read as follows:

§ 122.38 Permit and special license to unlade and lade.

* * * * *

(c) *Term permit or special license.* * * * In addition, a term permit or special license to unlade or lade already issued will not be applicable to any inbound or outbound flight, with respect to which Customs and Border Protection (CBP) has not received the advance electronic cargo information required, respectively, under § 122.48a or 192.14(b)(1)(ii) of this chapter (see paragraph (g) of this section).

* * * * *

(g) *Advance receipt of electronic cargo information.* The CBP will not issue a permit to unlade or lade cargo upon arrival or departure of an aircraft, and a term permit or special license already issued will not be applicable to any inbound or outbound flight, with respect to which CBP has not received the advance electronic cargo information required, respectively, under § 122.48a or 192.14 of this chapter. In cases in which CBP does not receive complete cargo information in the time and manner and in the electronic format required by § 122.48a or 192.14 of this chapter, as applicable, CBP may delay issuance of a permit or special license to unlade or lade cargo, and a term permit or special license to unlade or lade already issued may not apply, until all required information is received. The CBP may also decline to issue a permit or special license to unlade or lade, and a term permit or special license already issued may not apply, with respect to the specific cargo for which advance information is not timely received electronically, as specified in § 122.48a or 192.14(b)(1)(ii) of this chapter.

6. Amend § 122.48 by revising paragraph (a) to read as follows:

§ 122.48 Air cargo manifest.

(a) *When required.* Except as provided in paragraphs (d) and (e) of this section, an air cargo manifest need not be filed for any aircraft required to enter under § 122.41. However, an air cargo manifest for all cargo on board together with the general declaration must be kept aboard any aircraft required to enter under § 122.41, for production upon demand.

* * * * *

7. Amend subpart E of part 122 by adding a new § 122.48a to read as follows:

§ 122.48a Electronic information for air cargo required in advance of arrival.

(a) *General requirement.* Pursuant to section 343(a), Trade Act of 2002, as amended (19 U.S.C. 2071 note), and subject to paragraph (e) of this section, for any inbound aircraft required to enter under § 122.41, that will have commercial cargo aboard, Customs and Border Protection (CBP) must electronically receive from the inbound air carrier and, if applicable, an approved party as specified in paragraph (c)(1) of this section, certain information concerning the incoming cargo, as enumerated, respectively, in paragraphs (d)(1) and (d)(2) of this section. The CBP must receive such

information no later than the time frame prescribed in paragraph (b) of this section. The advance electronic transmission of the required cargo information to CBP must be effected through a CBP-approved electronic data interchange system.

(1) *Cargo remaining aboard aircraft; cargo to be entered under bond.* Air cargo arriving from and departing for a foreign country on the same through flight and cargo that is unladen from the arriving aircraft and entered, in bond, for exportation, or for transportation and exportation (see subpart J of this part), are subject to the advance electronic information filing requirement under paragraph (a) of this section.

(2) *Diplomatic pouches.* When goods comprising a diplomatic or consular bag (including cargo shipments, containers, and the like) that belong to the United States or to a foreign government are shipped under an air waybill, such cargo is subject to the advance reporting requirements of paragraph (a) of this section.

(b) *Time frame for presenting data.* (1) *Nearby foreign areas.* In the case of aircraft under paragraph (a) of this section that depart for the United States from any foreign port or place in North America, including locations in Mexico, Central America, South America (from north of the Equator only), the Caribbean, and Bermuda, CBP must receive the required cargo information no later than the time of the departure of the aircraft for the United States (no later than the time that wheels are up on the aircraft, and it is en route directly to the United States).

(2) *Other foreign areas.* In the case of aircraft under paragraph (a) of this section that depart for the United States from any foreign area other than that specified in paragraph (b)(1) of this section, CBP must receive the required cargo information no later than 4 hours prior to the arrival of the aircraft in the United States.

(c) *Party electing to file advance electronic cargo data.* (1) *Other filer.* In addition to incoming air carriers for whom participation is mandatory, one of the following parties meeting the qualifications of paragraph (c)(2) of this section, may elect to transmit to CBP the electronic data for incoming cargo that is listed in paragraph (d)(2) of this section:

(i) An Automated Broker Interface (ABI) filer (importer or its Customs broker) as identified by its ABI filer code;

(ii) A Container Freight Station/deconsolidator as identified by its FIRMS (Facilities Information and Resources Management System) code;

(iii) An Express Consignment Carrier Facility as identified by its FIRMS code; or,

(iv) An air carrier as identified by its carrier IATA (International Air Transport Association) code, that arranged to have the incoming air carrier transport the cargo to the United States.

(2) *Eligibility.* To be qualified to file cargo information electronically, a party identified in paragraph (c)(1) of this section must establish the communication protocol required by CBP for properly presenting cargo information through the approved data interchange system. Also, other than a broker or an importer (see 113.62(j)(2) of this chapter), the party must possess a Customs international carrier bond containing all the necessary provisions of § 113.64 of this chapter.

(3) *Nonparticipation by other party.* If another party as specified in paragraph (c)(1) of this section does not participate in advance electronic cargo information filing, the party that arranges for and/or delivers the cargo shipment to the incoming carrier must fully disclose and present to the carrier the cargo information listed in paragraph (d)(2) of this section; and the incoming carrier, on behalf of the party, must present this information electronically to CBP under paragraph (a) of this section.

(4) *Required information in possession of third party.* Any other entity in possession of required cargo data that is not the incoming air carrier or a party described in paragraph (c)(1) of this section must fully disclose and present the required data for the inbound air cargo to either the air carrier or other electronic filer, as applicable, which must present such data to CBP.

(5) *Party receiving information believed to be accurate.* Where the party electronically presenting the cargo information required in paragraph (d) of this section receives any of this information from another party, CBP will take into consideration how, in accordance with ordinary commercial practices, the presenting party acquired such information, and whether and how the presenting party is able to verify this information. Where the presenting party is not reasonably able to verify such information, CBP will permit the party to electronically present the information on the basis of what that party reasonably believes to be true.

(d) *Non-consolidated/consolidated shipments.* For non-consolidated shipments, the incoming air carrier must transmit to CBP all of the information for the air waybill record, as enumerated in paragraph (d)(1) of this section. For consolidated shipments: The incoming air carrier must transmit to CBP the information listed in paragraph (d)(1) of this section that is applicable to the master air waybill; and the air carrier must transmit cargo information for all associated house air waybills as enumerated in paragraph (d)(2) of this section, unless another party as described in paragraph (c)(1) of this section electronically transmits this information directly to CBP.

(1) *Cargo information from air carrier.* The incoming air carrier must present to CBP the following data elements for inbound air cargo (an ''M'' next to any listed data element indicates that the data element is mandatory in all cases; a ''C'' next to the listed data element indicates that the data element is conditional and must be transmitted to CBP only if the particular information pertains to the inbound cargo):

(i) Air waybill number (M) (The air waybill number is the International Air Transport Association (IATA) standard 11-digit number);

(ii) Trip/flight number (M);

(iii) Carrier/ICAO (International Civil Aviation Organization) code (M) (The approved electronic data interchange system supports both 3– and 2–character ICAO codes, provided that the final digit of the 2-character code is not a numeric value);

(iv) Airport of arrival (M) (The 3-alpha character ICAO code corresponding to the first airport of arrival in the Customs territory of the United States (for example, Chicago O'Hare = ORD; Los Angeles International Airport = LAX));

(v) Airport of origin (M) (The 3-alpha character ICAO code corresponding to the airport from which a shipment began its transportation by air to the United States (for example, if a shipment began its transportation from Hong Kong (HKG), and it transits through Narita, Japan (NRT), en route to the United States, the airport of origin is HKG, not NRT));

(vi) Scheduled date of arrival (M);

(vii) Total quantity based on the smallest external packing unit (M) (for example, 2 pallets containing 50 pieces each would be considered as 100, not 2);

(viii) Total weight (M) (may be expressed in either pounds or kilograms);

(ix) Precise cargo description (M) (for consolidated shipments, the word ''Consolidation'' is a sufficient description for the master air waybill record; for non-consolidated shipments, a precise cargo description or the 6-digit Harmonized Tariff Schedule (HTS) number must be provided (generic descriptions, specifically those such as ''FAK'' (''freight of all kinds''), ''general

cargo'', and ''STC'' (''said to contain'') are not acceptable));

(x) Shipper name and address (M) (for consolidated shipments, the identity of the consolidator, express consignment or other carrier, is sufficient for the master air waybill record; for non-consolidated shipments, the identity of the actual shipper (who is the owner and exporter) of the merchandise from the foreign country is required);

(xi) Consignee name and address (M) (for consolidated shipments, the identity of the container station, express consignment or other carrier is sufficient for the master air waybill record; for non-consolidated shipments, the name and address of the party to whom the cargo will be delivered is required, with the exception of ''AFROB'' (Foreign Cargo Remaining On Board));

(xii) Consolidation identifier (C);

(xiii) Split shipment indicator (C) (this data element includes information indicating the particular portion of the split shipment that will arrive; the boarded quantity of that portion of the split shipment (based on the smallest external packing unit); and the boarded weight of that portion of the split shipment (expressed in either pounds or kilograms));

(xiv) Permit to proceed information (C) (this element includes the permit-to-proceed destination airport (the 3-alpha character ICAO code corresponding to the permit-to-proceed destination airport); and the scheduled date of arrival at the permit-to-proceed destination airport);

(xv) Identifier of other party which is to submit additional air waybill information (C);

(xvi) In-bond information (C) (this data element includes the destination airport; the international/domestic identifier (the in-bond type indicator); the in-bond control number, if there is one (C); and the onward carrier identifier, if applicable (C)); and

(xvii) Local transfer facility (C).

(2) *Cargo information from carrier or other filer.* The incoming air carrier must present the following additional information to CBP for the incoming cargo, unless another party as specified in paragraph (c)(1) of this section elects to present this information directly to CBP. Information for all house air waybills under a single master air waybill consolidation must be presented electronically to CBP by the same party. (An ''M'' next to any listed data element indicates that the data element is mandatory in all cases; a ''C'' next to any listed data element indicates that the data element is conditional and must be transmitted to CBP only if the particular information pertains to the inbound cargo):

(i) The master air waybill number and the associated house air waybill number (M) (the house air waybill number may be up to 12 alphanumeric characters (each alphanumeric character that is indicated on the paper house air waybill document must be included in the electronic transmission; alpha characters may not be eliminated));

(ii) Foreign airport of origin (M) (The 3-alpha character ICAO code corresponding to the airport from which a shipment began its transportation by air to the United States (for example, if a shipment began its transportation from Hong Kong (HKG), and it transits through Narita, Japan (NRT), en route to the United States, the airport of origin is HKG, not NRT));

(iii) Cargo description (M) (a precise description of the cargo or the 6-digit Harmonized Tariff Schedule (HTS) number must be provided);

(iv) Total quantity based on the smallest external packing unit (M) (for example, 2 pallets containing 50 pieces each would be considered as 100, not 2);

(v) Total weight of cargo (M) (may be expressed in either pounds or kilograms);

(vi) Shipper name and address (M) (the name and address of the actual shipper (who is the owner and exporter) of the cargo from the foreign country);

(vii) Consignee name and address (M) (the name and address of the party to whom the cargo will be delivered in the United States, with the exception of ''FROB'' (Foreign Cargo Remaining On Board)); and

(viii) In-bond information (C) (this data element includes the destination airport; the international/domestic identifier (the in-bond type indicator); the in-bond control number, if there is one (C); and the onward carrier identifier, if applicable (C).

(3) *Letters and documents.* For purposes of advance electronic cargo information filing under this section, letters and documents being shipped to the United States are handled under the same procedures as all other types of cargo. Such shipments are subject to the same detailed data elements that are otherwise required for incoming air cargo under paragraphs (d)(1) and (d)(2) of this section. The term ''letters and documents'' as used in this paragraph means:

(i) The data (for example, records, diagrams, other business data) as described in General Note 19(c), Harmonized Tariff Schedule of the United States (HTSUS);

(ii) Securities and similar evidence of value described in subheading 4907, HTSUS, other than monetary instruments covered under 31 U.S.C. 5301–5322; and

(iii) Personal correspondence, whether on paper, cards, photographs, tapes, or other media.

(e) *Effective date of this section.* (1) *General.* Subject to paragraph (e)(2) of this section, all affected air carriers, and other parties as specified in paragraph (c)(1) of this section that elect to participate in advance automated cargo information filing, must comply with the requirements of this section on and after 90 days from the date that this section is published as a final rule in the **Federal Register**.

(2) *Delay in effective date of section.* The CBP may delay the general effective date of this section in the event that any necessary modifications to the approved electronic data interchange system are not yet in place. Also, CBP may delay the general effective date of this section at a given port until CBP has afforded any necessary training to CBP personnel at that port. In addition, CBP may delay implementation if further time is required to complete certification testing of new participants. Any such delay would be the subject of an announcement in the **Federal Register**.

8. Amend subpart G of part 122 by adding a new § 122.66 to read as follows:

122.66 Clearance or permission to depart denied.

If advance electronic air cargo information is not received as provided in § 192.14 of this chapter, Customs and Border Protection may deny clearance or permission for the aircraft to depart from the United States.

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The general authority citation for part 123 would be revised, and the relevant specific sectional authority citation would continue, to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States (HTSUS)), 1431, 1433, 1436, 1448, 1624, 2071 note.

* * * * *

Section 123.8 also issued under 19 U.S.C. 1450–1454, 1459;

* * * * *

2. Amend § 123.8 by:

a. Adding a sentence after the second sentence in paragraph (a); and

b. Adding a sentence at the end of paragraph (d).

The additions would read as follows:

123.8 Permit or special license to unlade or lade a vessel or vehicle.

(a) *Permission to unlade or lade.* * * * Permission to unlade or lade a truck may be denied for any cargo with respect to which advance electronic information has not been received as provided in § 123.92 or 192.14 of this chapter, as applicable.* * *

* * * * *

(d) *Term permit or special license.* * * * A term permit or special license to unlade or lade a truck already issued will not be applicable as to any cargo with respect to which advance electronic information has not been received as provided in § 123.92 or 192.14 of this chapter, as applicable.

3. Amend part 123 by adding a new subpart J to read as follows:

Subpart J—Advance Information for Cargo Arriving by Rail or Truck

§ 123.91 Electronic information for rail cargo required in advance of arrival.

§ 123.92 Electronic information for truck cargo required in advance of arrival.

Subpart J—Advance Information for Cargo Arriving by Rail or Truck

§ 123.91 Electronic information for rail cargo required in advance of arrival.

(a) *General requirement.* Pursuant to section 343(a), Trade Act of 2002, as amended (19 U.S.C. 2071 note), and subject to paragraph (e) of this section, for any train requiring a train sheet under § 123.6, that will have commercial cargo aboard, Customs and Border Protection (CBP) must electronically receive from the rail carrier certain information concerning the incoming cargo, as enumerated in paragraph (d) of this section, no later than 2 hours prior to the arrival of the cargo at the United States port of entry. Specifically, to effect the advance electronic transmission of the required rail cargo information to CBP, the rail carrier must use a CBP-approved electronic data interchange system.

(1) *Through cargo in transit to a foreign country.* Cargo arriving by train for transportation in transit across the United States from one foreign country to another; and cargo arriving by train for transportation through the United States from point to point in the same foreign country are subject to the advance electronic information filing requirement for incoming cargo under paragraph (a) of this section.

(2) *Cargo under bond.* Cargo that is to be unladed from the arriving train and entered, in bond, for exportation, or for transportation and exportation, in another vehicle or conveyance is also subject to the advance electronic information filing requirement under paragraph (a) of this section.

(b) *Exception; cargo in transit from point to point in the United States.* Domestic cargo transported by train to one port from another in the United States by way of a foreign country is not subject to the advance electronic information filing requirement for incoming cargo under paragraph (a) of this section.

(c) *Incoming rail carrier.* (1) *Receipt of data; acceptance of cargo.* As a pre-requisite to accepting the cargo, the carrier must receive, from the foreign shipper and owner of the cargo or from a freight forwarder, as applicable, any necessary cargo shipment information, as listed in paragraph (d) of this section, for electronic transmission to CBP.

(2) *Accuracy of information received by rail carrier.* Where the rail carrier electronically presenting the cargo information required in paragraph (d) of this section receives any of this information from another party, CBP will take into consideration how, in accordance with ordinary commercial practices, the rail carrier acquired such information, and whether and how the carrier is able to verify this information. Where the rail carrier is not reasonably able to verify such information, CBP will permit the carrier to electronically present the information on the basis of what the carrier reasonably believes to be true.

(d) *Cargo information required.* The rail carrier must electronically transmit to CBP the following information for all required incoming cargo that will arrive in the United States by train:

(1) The rail carrier identification SCAC code (the unique Standard Carrier Alpha Code assigned for each carrier by the National Motor Freight Traffic Association; see § 4.7a(c)(2)(iii) of this chapter);

(2) The carrier-assigned conveyance name, equipment number and trip number;

(3) The scheduled date and time of arrival of the train at the first port of entry in the United States;

(4) The numbers and quantities of the cargo laden aboard the train as contained in the carrier's bill of lading, either master or house, as applicable (this means the quantity of the lowest external packaging unit; containers and pallets do not constitute acceptable information; for example, a container holding 10 pallets with 200 cartons should be described as 200 cartons);

(5) A precise cargo description (or the Harmonized Tariff Schedule (HTS) number(s) to the 6-digit level under which the cargo is classified if that information is received from the shipper) and weight of the cargo; or, for a sealed container, the shipper's declared description and weight of the cargo (generic descriptions, specifically those such as ''FAK'' (''freight of all kinds''), ''general cargo,'' and ''STC'' (''said to contain'') are not acceptable);

(6) The shipper's complete name and address, or identification number, from the bill(s) of lading (this means the actual owner (exporter) of the cargo from the foreign country; listing a freight forwarder or broker under this category is not acceptable; the identification number will be a unique number to be assigned by CBP upon the implementation of the Automated Commercial Environment);

(7) The complete name and address of the consignee, or identification number, from the bill(s) of lading (The consignee is the party to whom the cargo will be delivered in the United States. However, in the case of cargo shipped ''to order of [a named party],'' the carrier must identify this named ''to order'' party as the consignee; and, if there is any other commercial party listed in the bill of lading for delivery or contact purposes, the carrier must also report this other commercial party's identity and contact information (address/phone number) in the ''Notify Party'' field of the advance electronic data transmission to CBP, to the extent that the CBP-approved electronic data interchange system is capable of receiving this data. The identification number will be a unique number assigned by CBP upon implementation of the Automated Commercial Environment);

(8) The place where the rail carrier takes possession of the cargo shipment;

(9) Internationally recognized hazardous material code when such materials are being shipped by rail;

(10) Container numbers (for containerized shipments) or the rail car numbers; and

(11) The seal numbers for all seals affixed to containers and/or rail cars to the extent that CBP's data system can accept this information (for example, if a container has more than two seals, and only two seal numbers can be accepted through the system per container, the carrier's electronic presentation of two of these seal numbers for the container would be considered as constituting full compliance with this data element).

(e) *Effective date for compliance with this section.* Rail carriers must commence the advance electronic transmission to CBP of the required cargo information, 90 days from the date that CBP publishes notice in the **Federal Register** informing affected carriers that the approved electronic data

interchange system is in place and operational at the port of entry where the train will first arrive in the United States.

§ 123.92 Electronic information for truck cargo required in advance of arrival.

(a) *General requirement.* Pursuant to section 343(a) of the Trade Act of 2002, as amended (19 U.S.C. 2071 note), and subject to paragraph (e) of this section, for any truck required to report its arrival under § 123.1(b), that will have commercial cargo aboard, Customs and Border Protection (CBP) must electronically receive from the party described in paragraph (c) of this section certain information concerning the cargo, as enumerated in paragraph (d) of this section. The CBP must receive such cargo information by means of a CBP-approved electronic data interchange system no later than either 30 minutes or 1 hour prior to the carrier's arrival at a United States port of entry, or such lesser time as authorized, based upon the CBP-approved system employed to present the information.

(1) *Through cargo in transit to a foreign country.* Cargo arriving by truck in transit through the United States from one foreign country to another (§ 123.31(a)); and cargo arriving by truck for transportation through the United States from one point to another in the same foreign country (§ 123.31(b); § 123.42) are subject to the advance electronic information filing requirement in paragraph (a) of this section.

(2) *Cargo entered under bond.* Cargo that is to be unladed from the arriving truck and entered, in bond, for exportation, or for transportation and exportation, in another vehicle or conveyance are also subject to the advance electronic information filing requirement in paragraph (a) of this section.

(b) *Exceptions from advance reporting requirements.* (1) *Cargo in transit from point to point in the United States.* Domestic cargo transported by truck and arriving at one port from another in the United States after transiting a foreign country (§ 123.21; § 123.41) is exempt from the advance electronic filing requirement for incoming cargo under paragraph (a) of this section.

(2) *Certain informal entries.* The following merchandise is exempt from the advance cargo information reporting requirements under paragraph (a) of this section, to the extent that such merchandise qualifies for informal entry pursuant to part 143, subpart C, of this chapter:

(i) Merchandise which may be informally entered on Customs Form (CF) 368 or 368A (cash collection or receipt);

(ii) Merchandise unconditionally or conditionally free, not exceeding $2,000 in value, eligible for entry on CF 7523; and

(iii) Products of the United States being returned, for which entry is prescribed on CF 3311.

(c) *Carrier; and importer or broker.* (1) *Single party presentation.* Except as provided in paragraph (c)(2) of this section, the incoming truck carrier must present all required information to CBP in the time and manner prescribed in paragraph (a) of this section.

(2) *Dual party presentation.* The United States importer, or its Customs broker, may elect to present to CBP a portion of the required information that it possesses in relation to the cargo. Where the broker, or the importer (*see* § 113.62(j)(2) of this chapter), elects to submit such data, the carrier is responsible for presenting to CBP the remainder of the information specified in paragraph (d) of this section.

(3) *Party receiving information believed to be accurate.* Where the party electronically presenting the cargo information required in paragraph (d) of this section receives any of this information from another party, CBP will take into consideration how, in accordance with ordinary commercial practices, the presenting party acquired such information, and whether and how the presenting party is able to verify this information. Where the presenting party is not reasonably able to verify such information, CBP will permit the party to electronically present the information on the basis of what the party reasonably believes to be true.

(d) *Cargo information required.* The following commodity and transportation information, as applicable, must be electronically transmitted to and received by CBP for all required incoming cargo arriving in the United States by truck, to the extent that the particular CBP-approved electronic data interchange system employed can accept this information:

(1) Conveyance number, and (if applicable) equipment number (the number of the conveyance is its Vehicle Identification Number (VIN) or its license plate number and State of issuance; the equipment number, if applicable, refers to the identification number of any trailing equipment or container attached to the power unit);

(2) Carrier identification (this is the truck carrier identification SCAC code (the unique Standard Carrier Alpha Code) assigned for each carrier by the National Motor Freight Traffic Association; *see* § 4.7a(c)(2)(iii) of this chapter);

(3) Trip number and, if applicable, the transportation reference number for each shipment (the transportation reference number is the freight bill number, or Pro Number, if such a number has been generated by the carrier);

(4) Container number(s) (for any containerized shipment) (if different from the equipment number), and the seal numbers for all seals affixed to the equipment or container(s);

(5) The foreign location where the truck carrier takes possession of the cargo destined for the United States;

(6) The scheduled date and time of arrival of the truck at the first port of entry in the United States;

(7) The numbers and quantities for the cargo laden aboard the truck as contained in the bill(s) of lading (this means the quantity of the lowest external packaging unit; containers and pallets do not constitute acceptable information; for example, a container holding 10 pallets with 200 cartons should be described as 200 cartons);

(8) The weight of the cargo, or, for a sealed container, the shipper's declared weight of the cargo;

(9) A precise description of the cargo or the Harmonized Tariff Schedule (HTS) numbers to the 6-digit level under which the cargo will be classified (generic descriptions, specifically those such as FAK (''freight of all kinds''), ''general cargo,'' and ''STC'' (''said to contain'') are not acceptable);

(10) Internationally recognized hazardous material code when such cargo is being shipped by truck;

(11) The shipper's complete name and address, or identification number, from the bill(s) of lading (the identity of the actual shipper (the owner and exporter) of the cargo from the foreign country is required; the identification number will be a unique number to be assigned by CBP upon the implementation of the Automated Commercial Environment); and

(12) The complete name and address of the consignee, or identification number, from the bill(s) of lading (the consignee is the party to whom the cargo will be delivered in the United States, with the exception of ''FROB'' (Foreign Cargo Remaining On Board); the identification number will be a unique number assigned by CBP upon implementation of the Automated Commercial Environment).

(e) *Effective date for compliance with this section.* The incoming truck carrier and, if electing to do so, the United States importer, or its Customs broker,

must present the necessary cargo data to CBP at the particular port of entry where the truck will arrive in the United States on and after 90 days from the date that CBP has published a notice in the **Federal Register** informing affected carriers that:

(1) The approved data interchange is in place and fully operational at that port; and

(2) The carrier must commence the presentation of the required cargo information through the approved system.

PART 192—EXPORT CONTROL

1. The authority citation for part 192 would be revised to read as follows:

Authority: 19 U.S.C. 66, 1624, 1646c. Subpart A also issued under 19 U.S.C. 1627a, 1646a, 1646b; subpart B also issued under 13 U.S.C. 303; 19 U.S.C. 2071 note; 46 U.S.C. 91.

2. Amend subpart B of part 192 by adding a new § 192.14 to read as follows:

§ 192.14 Electronic information for outward cargo required in advance of departure.

(a) *General requirement.* Pursuant to section 343(a), Trade Act of 2002, as amended (19 U.S.C. 2071 note), and subject to paragraph (e) of this section, for any commercial cargo that is to be transported out of the United States by vessel, aircraft, rail, or truck, unless exempted under paragraph (d) of this section, the United States Principal Party in Interest (USPPI), or its authorized agent, must electronically transmit for receipt by Customs and Border Protection (CBP), no later than the time period specified in paragraph (b) of this section, certain cargo information, as enumerated in paragraph (c) of this section. Specifically, to effect the advance electronic transmission of the required cargo information to CBP, the USPPI or its authorized agent must use a CBP-approved electronic data interchange system (currently, the Automated Export System (AES)).

(b) *Presentation of data.* (1) *Time for presenting data.* USPPIs or their authorized agents must electronically transmit and verify system acceptance of required cargo information for outbound cargo no later than the time period specified as follows (see paragraph (b)(3) of this section):

(i) For vessel cargo, the USPPI or its authorized agent must transmit and verify system acceptance of export vessel cargo information no later than 24 hours prior to the departure of the vessel;

(ii) For air cargo, including cargo being transported by Air Express Couriers, the USPPI or its authorized agent must transmit and verify system acceptance of export air cargo information no later than 2 hours prior to the scheduled departure time of the aircraft;

(iii) For truck cargo, including cargo departing by Express Consignment Courier, the USPPI or its authorized agent must transmit and verify system acceptance of export truck cargo information no later than 1 hour prior to the arrival of the truck at the border; and

(iv) For rail cargo, the USPPI or its authorized agent must transmit and verify system acceptance of export rail cargo information no later than 4 hours prior to the time at which the engine is attached to the train to go foreign.

(2) *Applicability of time frames.* The time periods in paragraph (b)(1) of this section for reporting required export cargo information to CBP for outward vessel, air, truck, or rail cargo only apply to shipments without an export license, that require full pre-departure reporting of shipment data, in order to comply with the advance cargo information filing requirements under section 343(a), as amended. Paragraph (e) of this section details effective dates for compliance with the time frames provided in paragraph (b)(1) of this section. Requirements placed on exports controlled by other Government agencies will remain in force unless changed by the agency having the regulatory authority to do so. The CBP will also continue to require 72-hour advance notice for vehicle exports pursuant to § 192.2(c)(1) and (c)(2)(i) of this part. USPPIs or their authorized agents should refer to the relevant titles of the Code of Federal Regulations for pre-filing requirements of other Government agencies.

(3) *System verification of data acceptance.* Once the USPPI or its authorized agent has transmitted the data required under paragraphs (c)(1) and (c)(2) of this section, and the CBP-approved electronic system has received and accepted this data, the system will generate and transmit to the USPPI a confirmation number (this number is known as the Internal Transaction Number (ITN)), which verifies that the data has been accepted as transmitted for the outgoing shipment.

(c) *Information required.* (1) *Currently collected commodity data.* The export cargo information to be collected from USPPIs or their authorized agents for outbound cargo is already contained in the Bureau of Census electronic Shipper's Export Declaration (SED) that the USPPI or its authorized agent currently presents to CBP through the approved electronic system. The AES Commodity Module already captures the requisite export data, so no new data elements for export cargo are required under this section. The export cargo data elements that are required to be reported electronically through the approved system are also found in § 30.63 of the Bureau of Census Regulations (15 CFR 30.63).

(2) *Transportation data.* Reporting of the following transportation information is currently mandatory for the vessel, air, truck, and rail modes (see also paragraph (c)(3) of this section):

(i) Mode of transportation (the mode of transportation is defined as that by which the goods are exported or shipped (vessel, air, rail, or truck));

(ii) Carrier identification (for vessel, rail and truck shipments, the unique carrier identifier is the 4-character Standard Carrier Alpha Code (SCAC); for aircraft, the carrier identifier is the 2-or 3-character International Air Transport Association (IATA) code);

(iii) Conveyance name (the conveyance name is the name of the carrier; for sea carriers, this is the name of the vessel; for others, the carrier name);

(iv) Country of ultimate destination (this is the country as known to the USPPI at the time of exportation, where the cargo is to be consumed or further processed or manufactured; this country would be identified by the 2-character International Standards Organization (ISO) code for the country of ultimate destination);

(v) Estimated date of exportation (the USPPI or its authorized agent must report the date the cargo is scheduled to leave the United States for all modes of transportation; if the actual date is not known, the USPPI or its authorized agent must report the best estimate as to the time of departure); and

(vi) Port of exportation (the port where the outbound cargo actually departs from the United States is designated by its unique code, as set forth in Annex C, Harmonized Tariff Schedule of the United States (HTSUS)).

(3) *Proof of electronic filing; exemption from filing.* The USPPI, or its authorized agent, must furnish to the outbound carrier a proof of electronic filing citation (the ITN), low-risk exporter citation (currently, the Option 4 filing citation), or exemption statement, for annotation on the carrier's outward manifest, waybill, or other export documentation covering the cargo to be shipped. The proof of electronic filing citation, low-risk exporter citation, or exemption statement, will conform to the approved data formats found in the Bureau of

Census Foreign Trade Statistics Regulations (FTSR) (15 CFR part 30).

(4) *Carrier responsibility.* (i) *Loading of cargo.* The carrier may not load cargo without first receiving from the USPPI or its authorized agent either the related electronic filing citation as prescribed under paragraph (c)(3) of this section, or an appropriate exemption statement for the cargo as specified in paragraph (d) of this section.

(ii) *High-risk cargo.* For cargo that CBP has identified as potentially high-risk, the carrier, after being duly notified by CBP, will be responsible for delivering the cargo for inspection/examination. If the cargo identified as high risk has already departed, CBP will exercise its authority to demand that the export carrier redeliver the cargo in accordance with the terms of its international carrier bond (*see* § 113.64(g)(2) of this chapter).

(5) *USPPI receipt of information believed to be accurate.* Where the USPPI or its authorized agent electronically presenting the cargo information required in paragraphs (c)(1) and (c)(2) of this section receives any of this information from another party, CBP will take into consideration how, in accordance with ordinary commercial practices, the USPPI or its authorized agent acquired this information, and whether and how the USPPI or authorized agent is able to verify this information. Where the USPPI or authorized agent is not reasonably able to verify any information received, CBP will permit this party to electronically present the information on the basis of what it reasonably believes to be true.

(d) *Exemptions from reporting; Census exemptions applicable.* The USPPI or authorized agent must furnish to the outbound carrier an appropriate exemption statement (low-risk exporter or other exemption) for any export shipment laden that is not subject to pre-departure electronic information filing under this section. The exemption statement will conform to the proper format approved by the Bureau of Census. Any exemptions from reporting requirements for export cargo are enumerated in §§ 30.50 through 30.58 of the Bureau of Census Regulations (15 CFR 30.50 through 30.58). These exemptions are equally applicable under this section.

(e) *Effective date for compliance.* The requirements of this section, including the pre-departure time frames for reporting export cargo information for required shipments, and the requirement of the ITN, will be implemented concurrent with the completion of the redesign of the AES commodity module and the effective date of mandatory filing regulations that will be issued by the Department of Commerce pursuant to the Security Assistance Act (Pub. L. 107–228). This date will be announced in the **Federal Register**.

Robert C. Bonner,

Commissioner, Customs and Border Protection.

Approved: July 17, 2003.

Tom Ridge,

Secretary, Department of Homeland Security.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix—Regulatory Flexibility Act and Executive Order 12866

The Bureau of Customs and Border Protection (CBP) conducted the analysis below to concurrently address the requirements of the Regulatory Flexibility Act (RFA) of 1980 and Executive Order 12866. Those provisions require, respectively, that CBP (1) assess the impact of proposed rules on small business entities via an initial regulatory flexibility analysis and (2) determine if the proposed rule is a significant regulatory action, defined as having annual impact on the United States economy of $100 million or more. Critical to recognize is the RFA's focus of the proposed rule's effect on small, United States-based entities, as established by the standards identified in Panel 1 below.

PANEL 1.—INDUSTRY SIZE STANDARDS FOR SMALL ENTITIES[1]

Mode	Industry grouping	NAICS sector identifier	Standard of measure—less than
Air	Scheduled and Non-Scheduled Freight	#48112 #481212	1500 employees.
Rail	Short Haul	#482112	500 employees.
Vessel	Deep Sea	#483111	500 employees.
Truck	(a) General Freight, Local	#484110	$21.5 million gross annual revenues.
	(b) General Freight, Long Distance	#484121	
	(b) General Freight, Long Distance & Less Than Truckload	#484122	
	(c) Specialized Freight, Local		
	(e) Specialized Freight, Long Distance	#484220 #484230	

[1] Source: Small Business Size Standards Matched to North American Industry Classification Systems (NAICS), Small Business Administration, October 1, 2002.

A. Need for and Objective of the Proposed Rule

The proposed rule responds to the requirements of section 343(a) of the Trade Act of 2002, as amended (19 U.S.C. 2071 note). That Act requires that CBP implement procedures which require the advanced electronic submission of cargo information for both imports into and exports from the United States while not unduly impeding the flow of lawful trade. The fundamental objective of the proposed rule centers on providing CBP with sufficient detailed information on trade flows within a sufficient advanced timeframe such that CBP may exercise review, targeting and inspection of those shipments with the purpose of identifying and subsequently inspecting those high risk shipments with potential application to terrorist activities.

B. Description and Estimates of Small Entities Affected by the Proposed Rule

The proposed rule centers on two key features: (a) electronic submission of cargo information and (b) that information's submission prior to arrival into/departure from the United States. The advanced submission requirements vary by mode of transport, reflecting operational requirements and conditions for those modes. The advanced submission timeframes by mode are summarized in Panel 2 below:

PANEL 2.—SUMMARY OF ELECTRONIC SUBMISSION TIMEFRAMES BY MODE

Mode	Inbound	Inbound baseline time-frame for advanced electronic submission	Outbound	Outbound baseline time-frame for advanced electronic submission
Vessel	All cargo requiring reporting for CBP purposes.	24 hours prior to lading at foreign port of departure.	All cargo requiring reporting under current Census regulations. [1]	24 hours prior to departure.
Air	All cargo requiring reporting for CBP purposes.	4 hours prior to arrival in US. [2]	All cargo requiring reporting under current Census regulations. [1]	2 hours prior to scheduled departure.
Rail	All cargo requiring reporting for CBP purposes.	2 hours prior to arrival at 1st US port.	All cargo requiring reporting under current Census regulations. [1]	4 hours prior to attachment of engine to train to go foreign.
Truck	All cargo requiring reporting for CBP purposes.	30 minutes or 1 hour prior to arrival at 1st US port.	All cargo requiring reporting under current Census regulations. [1]	1 hour prior to scheduled border crossing.

[1] **Note:** As a matter of clarification and definition of the proposal's coverage, United States exports to Canada are not subject to advanced electronic cargo information submission under this proposal unless (a) the merchandise is licensable by Department of State or Department of Defense regulations or (b) the merchandise is transiting Canada with a 3rd country destination.

[2] **Note:** However, in the case of cargo requiring reporting for CBP purposes that departs for the United States from any foreign port or place in North America (including locations in Mexico), Central America, South America (from north of the Equator only), the Caribbean, and Bermuda, the cargo information must be received no later than the time of the departure of the aircraft for the United States (no later than the time that wheels are up on the aircraft, and it is en route directly to the United States.)

The General Theory

In classical economic theory, the value and volume of the supply and demand for goods and services in a national economy exist under conditions of an equilibrium price for those goods and services, both domestically, through national income accounting components, and internationally, through the net trade component. Disruptions, or changes, in that state of equilibrium occur regularly and frequently, with concomitant changes in supply and demand. Sources of such changes can be of a cyclical, secular or random noise variety, ranging in gravity and comprehensiveness in effect from major, as in large sustained increases in international energy prices, to small, as in damage to a large retailer's distribution center, to negligible, as in the brief closure for periodic maintenance of a single manufacturing plant. Each such significant change results in the economic model's initial equilibrium adjusting and readjusting via the mechanism of elasticities of price with respect to demand until all multiplier effects are exhausted and a new state of equilibrium is achieved, both nationally and internationally via competing goods and services. The significance of change to a new equilibrium will depend on the gravity of that initial change.

The Specific Regulatory Case

In the case of the current considered proposed rule on advanced electronic submission of cargo information, such a proposed rule represents, to one degree or another, a change in the national and international economic system's equilibrium. To the extent that the rule requires substantive process adjustments by producers, carriers, brokers, importers and exporters, then the proposed rule would represent an effective change in system equilibrium, resulting in subsequent substantial changes in supply, demand and price. To the extent that the rule's effect on trade participants is slight to negligible, then the rule's effect would not measurably alter system equilibrium.

In the sections below, CBP will identify, isolate, explore, explain and estimate the extent of the proposed rule's impact on the national United States economy pursuant to E.O. 12866 and net trade component by means of identifying the process adjustments expected for small business entities under the RFA. The CBP intends to supplement this initial regulatory impact analysis under E.O. 12866, and this initial regulatory flexibility analysis under the RFA with an expanded, more comprehensive follow-up assessment conducted by a private source under contract. The summary of operational change, presented in Panel 2 above, serves as a map to the estimation of the rule's impact.

Commonalities of Proposed Rule

The proposed rule offers certain conditions in common for all trade participants regardless of mode:

(1) Advanced information submission, albeit with different timeframes for different modes;

(2) Mandatory electronic filing;

(3) Costs to be incurred for compliance include those which are recurring and those which are one-time only;

(4) Mandatory use of already existing government approved electronic data interchange systems, notably the Automated Export System (AES) for all export transactions; Automated Manifest System (AMS) with applications for inbound rail, air, and vessel shipments; and other modules, such as the NCAP (National Customs Automation Program) prototype, with special application for truck modal operations;

(5) Internet access to CBP data interchanges for information submission and message transaction;

(6) Submitter's choice to exercise preference to employ third parties for information submission; and

(7) ''Just-in-time'' manufacturing considerations, common in CBP's prior ''Strawman'' proposals, are eliminated as a result of substantive reductions in timeframes for prior data submission.

Air Mode Inbound

The proposed rule establishes timeframes of 4 hours for electronic submission of information prior to the aircraft's arrival in the United States, or no later than the time of ''wheels-up'' in the case of certain nearby foreign areas. Panel 3 below summarizes the volume of inbound air cargo by principal air carrier segment.

PANEL 3.—INBOUND AIR CARGO ACTIVITY, JANUARY 2003

Air carrier segment	Airway bill volume (in thousands)	Median number of U.S. ports served
Total Volume (355 Active Air Carriers)	3,270	.....
(A) Volume of Express Consignment Carriers: Major carriers	2,410 (73.7%)	14
(B) Other Air Cargo	860 (26.3%)	.....
Top 14 Carriers	460 (14.1%)	9

PANEL 3.—INBOUND AIR CARGO ACTIVITY, JANUARY 2003—Continued

Air carrier segment	Airway bill volume (in thousands)	Median number of U.S. ports served
Remaining 338 Carriers	400 (12.3%)	3

Source: Automated Commercial System.

In addition to requiring information submission four hours prior to arrival in the United States, or no later than the time of ''wheels-up'' in the case of certain nearby foreign areas, air carriers will be required to provide their own interface capability with the government approved electronic interchange at each U.S. Port of Arrival served by that carrier. The current government approved interchange is the Automated Manifest System—Air (AAMS). Those carriers will no longer be required to present a hard copy of their manifest upon arrival. Only in the event that the data interchange system is temporarily unavailable by malfunction would carriers be required to present a hard copy of their cargo manifest.

The data in Panel 3 establishes several relevant considerations in assessing the proposed rule's impact. The large majority of air inbound shipments (73.7%), as measured by airway bills, is accounted for by a relatively small number of large express consignment carriers. Those carriers currently are highly automated and currently have the capacity at virtually no cost to comply with the data submission provisions of the proposed rule. Measured by median, those carriers import shipments into 13 U.S. ports of arrival and long ago equipped those sites for AAMS transmissions.

These express consignment carriers would likely not be affected by the proposed rule even in the case of short haul flights, largely originating in Mexico and Canada, inasmuch as they would only be required to submit AAMS information no later than the time of departure from the foreign area (no later than the time of ''wheels-up''). As a result, there would be no delay in departure from the foreign source necessitated in order to meet a pre-arrival reporting requirement. In any event, in operational practice, those carriers often engage more economical land shipment instead of higher cost air movement for short haul moves.

As a result of the above data and operational considerations, CBP concludes that these large carriers are substantially unaffected by the proposed rule.

The CBP estimates that these same factors and conclusion above hold for the second tier of air carriers, comprising 14.1% of airway bill volume. Those 14 carriers arrive at a median 9 U.S. Ports of Arrival.

The CBP data establish that a remaining 338 small carriers account for 12.3% of inbound air volume, serving a median 3 Ports of Arrival. Operating on a manual hard copy basis upon arrival, a majority of those 338 entities are foreign owned and fall out of the scope of the RFA. For those U.S. based small air carriers, CBP estimates that one time costs would be incurred to establish data transmission capability at the median three arrival ports. To a significant degree, those one time costs would be mitigated by recurring operational efficiencies related to standard business operations and more rapid CBP processing and release of shipments, allowing more rapid turnaround of the aircraft and crew for increased revenue generation activities.

International inbound mail shipments are included in the cargo volumes cited above. However, advanced data submission for mail shipments through the United States Postal Service (USPS) is excluded from consideration in the proposed rule. To this end, reflecting the restrictive condition of involvement of sovereign foreign governments and pre-existing international treaties governing the movement of international inbound mail shipments, CBP contemplates that such shipments will not at this time be subject to the terms and conditions of the proposed rule.

Truck Mode Inbound; Rail Mode Inbound

Panel 4 below illustrates the volume of truck and rail traffic reported on the Northern and Southern borders:

PANEL 4.—CONVEYANCE ARRIVALS

Mode	FY 2002 volume (in thousands)
Total Commercial Aircraft.	574.3.
Total Trucks	12,258.0.
At Southern Border	349.8 (2.9%).
At Northern Border	11,908.2 (97.2%).
Total Trains	44.3.
At Southern Border	8.4 (19%).
At Northern Border	35.9 (81%).
Total Vessels	226.2.

Source: Automated Commercial System.

Truck Mode Inbound; Explanation and Analysis of Data

The proposed rule requires cargo information submission either 30 minutes or 1 hour prior to arrival at the first U.S. Port of Arrival. As noted in Panel 4 above, the large majority of truck arrivals (97.2%) occurs at Northern Border ports. The CBP estimates that 60% of this inbound mode arrives with manually presented hard copy cargo information and, therefore, would be subject to changed operations to comply with the proposed rule. Further, consultations with industry sources suggest that the Northern Border supports an estimated 22,000 individual truck entities, of which 15,000 meet Small Business Administration standards as small entities (*see* Panel 1 above). A substantial portion of the 15,000 small trucking firms are Canada-based and, therefore, beyond the scope of the RFA's consideration. The portion of this segment which is U.S. based will be required to incur one time costs for hardware and software for data transmission.

While hardware requirements and software cost relatively little and while Internet transmission is distinctly low cost, those firms will be required to expend time for data entry. Compared to normal, pre-proposal operation standards, that factor could represent a significant cost.

On the other hand, CBP estimates that recurring annual costs of data transmission are low. Further, certain other benefits representing lower operating costs will be realized. Electronic transmission will represent a lower cost burden on record keeping for those entities as well as speed cargo information submission and physical border release of the conveyance at the U.S. port of arrival for those shipments. Such electronic efficiencies could be expected to translate directly into lower daily operational costs for entities. Also, the likelihood is substantial that U.S. based small truck entities will develop cooperative and commercial arrangements with exporters. Such arrangements would likely involve provision to the truck entity of data in readily transmittable format, thus reducing the data entry burden of this segment.

As yet another mitigating factor, small truck entities may choose to engage the data services of port authorities or commercial service providers. Further still, there is a social good to be considered in that faster conveyance release at the port of arrival will translate directly into less local traffic congestion at the port and lower diesel emissions for residents of the locality. While complex to quantify, such commercial and health benefits cannot responsibly be neglected because tangible social welfare and commercial benefits will result.

Less than 3% of truck activity takes place at Southern Border sites (*see* Panel 4 above). An unestablished number of trucking entities operate in that geographic environment. However, long-term operational observation establishes that much of that border's truck volume centers on servicing the maquiladora industry based in the local Mexican border area. These Mexican-based plants are owned and operated in the large majority for the assembly function by large U.S. and multinational corporations (Chapter 98, Subchapter II, Harmonized Tariff Schedule of the United States (HTSUS) (Articles Exported and Returned, Advanced or Improved Abroad)). Such U.S. and multinational corporations are highly automated in their record keeping and cargo information transmission capabilities.

Further, a substantial majority of that north bound traffic relies on lower cost Mexican-based trucking entities operating in a shuttle

fashion to supply finished products to distribution facilities located on U.S. territory. Such foreign owned trucking entities are beyond the scope of the RFA's consideration.

If small U.S. based truck companies engage data transmitting aids at a commercially negotiated cost, one would reasonably expect that truck companies would pass those costs downstream. Such a cost increase may encourage a change in competitive relationships with comparable transportation services offered by rail carriers. Further consideration, however, mitigates the likelihood and significance of any competitive modal shift in that such shifts depend highly on the (1) nature of the merchandise to be transported, (2) elasticities of price with respect to demand for those commodities for trade participants and (3) the inherent established time and location-of-service flexibility of trucking versus rail transport.

In summary for this inbound mode, a certain substantial number of U.S. based small truck entities operating on the Northern Border may experience measurable cost of operation impact from the proposed rule. However, CBP estimates that many of those costs would be offset by concomitant operational efficiencies directly resulting from an operational shift from pre-proposal manual hard copy practices to electronic filing and expedited border release, freeing up resources for expanded revenue generation opportunities.

Rail Mode Inbound; Explanation and Analysis of Data

The proposed rule establishes that cargo information will be electronically submitted 2 hours prior to arrival at the first U.S. port of arrival. As noted in Panel 4 above, 81% of rail volume occurs at Northern Border ports. The CBP estimates that all but 6 rail carriers already submit cargo information electronically. Only those 6 carriers would be affected by the proposed rule, and of those 6, some may not qualify as a small entity according to Panel 1 SBA standards. The operational effect of the proposal would be mitigated to a substantial degree by operational efficiencies attributable to electronic filing. Further mitigation is identified by the proposal's provision that the filing requirement will become mandatory within 90 days of CBP port automation to allow Rail AMS. The CBP establishes that 12 border ports still remain to be made operational for Rail AMS operation.

Vessel Mode Inbound

The proposed rule establishes that cargo information will be transmitted to CBP 24 hours prior to lading at the foreign port of departure, a standard which is consistent and exactly compatible with the earlier implemented Container Security Initiative (CSI). An estimated 50% of inbound vessel volume is accounted for by the previously implemented CSI program. The CBP estimates that a further 45% of inbound vessel cargo volume already participates in AMS electronic transmission, leaving only 5% of this vessel volume to be affected by the proposed rule. Also, because of the transportation timeframes inherent in long haul vessel transport, the filing time requirement is not expected to impose a measurable operational burden on carriers. And based on capital and labor requirements and practices in this segment, it is highly unlikely that these carriers would meet SBA small entity standards (*see* Panel 1 above). Further still, few carriers are U.S. based and thus properly considered under provisions of the RFA.

All Modes Outbound

Panel 5, below, illustrates the increasing volume of export shipments, from 1995 through 2002, that have been reported electronically through the Automated Export System (AES); and Panel 6, below, reflects, as of February 2003, the vastly increased number of export shipments being reported through AES as a percentage of the total number of export shipments reported, both electronically and on paper.

PANEL 5.—VOLUME OF AES SHIPMENTS

[External transaction numbers, in thousands]

Year	Total	Air	Rail/Truck	Vessel
1995	0.4	0	0	0.4
1996	21.4	0	0	21.4
1997	60.7	0.2	3.6	56.9
1998	221.0	30.3	81.1	109.6
1999	1038.5	486.4	262.7	289.5
2000	7140.9	4053.3	1407.0	1676.2
2001	8819.0	4424.3	1586.3	2800.7
2002	9424.0	4788.8	1832.9	2785.0

Source: Bureau of the Census.

PANEL 6.—EXPORT RECORDS, FEBRUARY 2003

[In thousands]

Mode	Via AES	Via paper SED	Total records	AES as percent of total
Air	421.3	80.7	502.1	83.9
Vessel	286.3	11.7	298.0	96.1
Truck/Rail	261.3	52.7	314.0	83.3
Total	968.9	145.2	1114.1	87.0

Source: Bureau of the Census.

All Modes Outbound; Explanation and Analysis of Data

The participation of outbound shipments in the proposed rule's reporting requirements will be concurrent with the completion of the redesign of the AES commodity module and mandatory, effective with a future regulatory publication by the Department of Commerce. For purposes of this proposed rule, the treatment below of outbound regulatory flexibility and E.O. 12866 impact is presented for information purposes solely.

The proposed rule states that exporters (U.S. Principal Parties in Interest—USPPI's) or their authorized agents will file commodity export information via the existing government approved data interchange, AES, within certain time frames prior to departure from the U.S. (*see* Panel 2 for time frames).

The use of AES has risen dramatically since its inception in 1995 (*see* Panel 5), such that currently AES transactions account for 87% of all export records (*see* Panel 6). Because of the large majority already participating in AES filing, only 13% of export records will be affected by the proposed rule.

Because of modal travel and preparation times, CBP does not identify notable operational hardship in meeting border

crossing filing times for any mode. In fact, the air express consignment burden is decreased compared to imports by a 1 hour timeframe prior to departure. Filings may take place via low cost Internet transmission. In filing, the USPPI will submit electronically to CBP a self generated external transaction number (XTN), receiving from CBP an internal transaction number (ITN), which is a system verification and approval (confirmation) number for cargo shipment information. Actual performance establishes that the ITN turnaround is routinely less than 1 minute. Only in the case that the USPPI chooses to engage in a third party commercial data transmission agent would the ITN/XTN turnaround require greater time, an estimated 15–30 minutes.

As in the *Truck Mode Inbound* section above, a potential impact may be experienced by small truck entities serving Northern border export transactions. However, as detailed in the Note to Panel 2, United States exports to Canada are not subject to advanced electronic cargo information submission under this proposal unless (a) the merchandise is licensable by Department of State or Department of Defense regulations or (b) the merchandise is transiting Canada with a 3rd country destination. Such a reporting factor may reasonably be expected to mitigate any burden on small trucking entities in providing a significant portion of the remaining 13% of outbound AES data.

Further with respect to outbound small truck entities, as also noted in the *Truck Mode Inbound* section above, certain cost lowering operational efficiencies will flow from the proposal's obligation to employ electronic filing, namely: (a) Electronic transmission will represent a lower cost burden on record keeping for those entities; (b) more rapid cargo information submission; and (c) more rapid physical border release of the conveyance at the U.S. port of arrival for those shipments. Such electronic efficiencies could be expected to translate directly into lower daily operational costs for entities, either partially or entirely offsetting one-time data transmission costs.

Executive Order 12866 and Significant Regulatory Action

Sector of Impact Identified

Outbound merchandise shipments generated by the United States Postal Service (USPS) may or may not be included within the scope of the proposed rule. In the event of inclusion, as a hybrid-type ''publicly owned private corporation'', the USPS would be responsible for data entry and transmission of an estimated 30 million outbound merchandise transactions (*i.e.*, parcel shipments) per year. While not included in the framework of the small entity oriented RFA, this organization and the proposal's effects become relevant in E.O. 12866 considerations which relate to impacts on the national economy. The CBP estimates that USPS would incur costs of $4–$6 per outbound transaction in order to perform data entry or purchase data entry services for each export transaction, yielding a total impact of $120–$180 million annually. Reasonably expected is that the USPS would request and be permitted to pass that cost to exporters (U.S.-based consumers) through some mechanism of, effectively, a user fee.

In the case that outbound international mail shipments are indeed included in the proposed rule, then such an impact readily qualifies this proposal as a significant regulatory action, surpassing the $100 million economic impact threshold established by the Executive Order. In the case that such shipments are removed or waived from the proposal at a later time, then the proposed rule's categorization as a significant regulatory action would no longer hold.

Competitive Relationship Effect

In the event of the USPS being obliged to provide outbound shipment data, then CBP estimates that the proposed rule would increase the degree of commercial competition between USPS and express consignment carriers. The U.S. Customs Service (now merged into CBP) prepared a detailed report to Congress in late 1997 identifying a series of factors of preferential Customs treatment available to USPS and not available to express consignment carriers. One of those identified factors focused on the Customs requirement for express carriers to provide detailed export transaction data with no equivalent requirement for USPS export shipments. By requiring USPS to provide the same data elements as express carriers in the same timeframe, the proposed rule would eliminate one key element of disparate treatment, effectively leveling the playing field between these two exporting entities and bringing both parties into more equal business operating practices.

C. Automation Costs of Participation in Advance Electronic Cargo Information Submission

CBP estimates below the following costs of shipper/carrier/importer/exporter compliance with electronic transmission requirements within the proposed rule's time frame for submission. The data were gathered from discussions with software providers and trade participants active in electronic data transmission with CBP.

Air Mode

Air mode is estimated to incur the greater of the costs for all modes. In order to purchase software, a large air carrier would incur costs of $5,000–$25,000 as a one-time license fee and $6,000/year in maintenance costs, plus an estimated $20,000/yr. in operating costs, primarily labor. If the air carrier chose to develop the transmission software independently, the carrier would incur development costs of an estimated $100,000, plus annual operating costs of $400,000, primarily labor. If the air carrier were to seek transmission services from a service provider, the carrier would incur costs of $500–$2,000 in one time subscription fees, plus an annual minimum $6,000 cost.

In estimating air industry total costs of compliance with the proposed rule, CBP established that 260 of the total 355 air carriers are American-based. The CBP estimates that these 260 carriers will choose information transmission compliance options in the following distribution: (a) 5 to develop software, maintain system and transmit at their own initiative; (b) 50 to purchase software, maintain and transmit; and (c) 205 to employ service providers for software, maintenance and transmission. Employing that distribution, CBP estimates the following transmission costs of compliance, broken down by both one-time and recurring annual costs:

ESTIMATED AIR MODE COSTS OF TRANSMISSION

[Thousands of dollars]

Transmission option selected	One time costs	Recurring annual costs
I. Develop	$500	$2,000
II. Purchase	750	1,300
III. Service Providers	205	1,230
Total	1,455	4,530

Truck Mode

In consideration of the truck mode, the primary cost for a shipper/carrier would involve complying with the Automated Broker Interface (ABI) Selectivity practices.

Specifically, there are approximately 13,400 trucking firms that will eventually have to move from a paper-based system to an electronic system.* Compliance with the Automated Broker Interface Selectivity practices would require, at a minimum, a facsimile transmission within the proposed rule's time frame for advance information.

Therefore, this rule would impose a small capital cost (a fax machine for firms that do not already own a fax machine), and a per-transmission cost. Firms could also avail themselves of a commercial transmission service; however, the per-transmission cost may be less cost-effective than a personal fax machine for a firm involved in many shipments. The per-transmission cost should be minimal, since the information that firms would need to send already must be gathered and presented at the time of arrival under current procedures. The CBP also assumes that most trucking firms will already own a fax machine. If 50% of firms must invest in a fax machine (a likely overestimate) at approximately $150 per machine, the total cost of this rule for the trucking industry would be a one-time cost of approximately $1 million. The CBP also makes a preliminary determination that this rulemaking would not result in any other changes in business practices that would impose additional costs to trucking firms. We request comments on these assumptions.

(*CBP estimates the following already in the analysis: (22,000 Truck firms at the Canada border + 350 Truck firms at Mexico border) * (.60 that are currently paper based) = 13,410).)

Vessel and Rail Modes

Vessel and rail carriers are the least affected in terms of cost of transmission because of those carriers' already high participation rate in electronic transmission meeting the proposed rule's requirements. In practical terms, costs of data submission for

these segments of the trade are adjudged near negligible.

D. Recordkeeping and Reporting Requirements

The proposed rule does not include additional, new recordkeeping requirements. Instead, because of the reliance of the proposal on electronic transmissions, the proposal may well simplify and reduce existing recordkeeping obligations of the trade participants. In terms of reporting requirements, the proposal carefully relies on using existing government approved electronic data interchange tools already in widespread use by trade participants.

E. Alternatives Considered

The CBP considered and incorporated alternative methodologies into the proposed rule's data submission requirements on trade community participants. In developing the proposed rule, CBP sought to balance the operational needs of legitimate commercial cargo flows with a meaningful and effective timeframe for identifying, targeting and inspecting potentially high risk merchandise shipments. In order to identify that balance, CBP proposed requirements for advance electronic submission by mode in ''Strawman'' proposals. Those initial standards proposed submission timetables ranging from 24 hours prior to departure to 4–24 hours prior to lading and subsequent cargo movement.

Substantial public comment and public hearings followed the ''Strawman'' Proposals, offering multiple alternatives. With a high degree of uniformity and consistency, those alternatives focused on several common issues: (1) Using already existing automated systems, such as AES and AMS for data submission; (2) different, more compact timeframes for provision of advanced information, oriented primarily around the objective of non-disruption of standard business transportation practices and commercially critical ''just-in-time'' delivery systems; and (3) re-focus of advanced data submission from a pre-lading basis to, respectively, a pre-arrival-into or pre-departure-from U.S. basis.

In response to public expressions and explanations, CBP, subsequent to the ''Strawman'' Proposals, effectively re-focused the time and transportation scheduling basis for the advanced electronic data submissions (see Panel 2 above vs. original Strawman framework) such that the proposed rule fairly closely reflects the philosophy and principles of the publicly expressed alternatives.

F. Conclusion

Regulatory Flexibility Act (RFA)

With respect to RFA considerations, CBP concludes that the proposed rule will result in no significant economic impact on a substantial number of small U.S. entities because:

(1) The proposed rule's reporting timeframes are reasonably compatible with modern shipping practices and capabilities and fundamentally reflect the alternative approaches presented by those commercial interests;

(2) The high volume of inbound and outbound transactions already currently reported on an electronic basis;

(3) Low cost of electronic transmission of the required data;

(4) Accessibility to and use of already existing government approved electronic data interchange mechanisms;

(5) Subsequent operating efficiencies resulting from electronic filing, resulting in enhanced revenue generating activities of small carriers;

(6) Exclusion of most exports to Canada from Bureau of the Census reporting;

(7) The RFA's exclusion from consideration of non-U.S. entities;

(8) Availability of existing Discrepancy Reporting authority for carriers to update/correct previously submitted cargo data; and

(9) Reporting timeframes which do not interfere with critical ''just-in-time'' delivery systems.

Executive Order 12866

With respect to Executive Order 12866, CBP concludes that, should USPS export transactions be included within the scope of the proposal's reporting requirements, the proposal qualifies as a significant regulatory action, with annual national economic cost greater than $100 million because USPS costs incurred would likely be recouped as user fees charged to U.S. exporters. The reverse conclusion would hold in the event that USPS export transactions are not included within the proposed rule. Further, in the case that USPS exports are included, the USPS—express consignment commercial competitive relationship would be more equalized.

[FR Doc. 03–18558 Filed 7–17–03; 3:39 pm]

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July 23, 2003

Part III

Environmental Protection Agency

Fifty-Second Report of the TSCA Interagency Testing Committee to the Administrator of the Environmental Protection Agency; Receipt of Report and Request for Comments; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2003–0026; FRL–7314–4]

Fifty-Second Report of the TSCA Interagency Testing Committee to the Administrator of the Environmental Protection Agency; Receipt of Report and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: The Toxic Substances Control Act (TSCA) Interagency Testing Committee (ITC) transmitted its Fifty-Second Report to the Administrator of the EPA on May 30, 2003. In the 52nd ITC Report, which is included with this notice, the ITC is not revising the *Priority Testing List*. However, the ITC is revising the Voluntary Information Submissions Innovative Online Network (VISION).

In its 51st ITC Report, the ITC announced that it would consider revising its voluntary information submission procedures to encourage greater and more efficient use of its VISION. The ITC has reviewed its voluntary information submission procedures and considered industry comments discussed in the 51st ITC Report. At this time, the ITC is revising the VISION as outlined in the 52nd ITC Report, which is included in this notice and on the ITC web site.

DATES: Comments, identified by docket ID number OPPT–2003–0026, must be received on or before August 22, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Dr. John D. Walker, ITC Director (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–7527; fax: (202) 564–7528; e-mail address: *walker.johnd@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This notice is directed to the public in general. It may, however, be of particular interest to you if you manufacture (defined by statute to include import) and/or process TSCA-covered chemicals and you may be identified by the North American Industrial Classification System (NAICS) codes 325 (Chemical Manufacturing) and 32411 (Petroleum Refineries). Because this notice is directed to the general public and other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical 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 OPPT–2003–0026. 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 EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

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/*.You may also access additional information about the ITC at *http://www.epa.gov/opptintr/itc/* or through the web site for the Office of Prevention, Pesticides and Toxic Substances (OPPTS) at *http://www.epa.gov/opptsfrs/home/opptsim.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.

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 I.B.1. 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.

C. 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 I.D. 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 OPPT–2003–0026. 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 oppt.ncic@epa.gov, Attention: Docket ID Number OPPT–2003–0026. 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 I.C.2. 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: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *By hand delivery or courier*. Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number— OPPT–2003–0026. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

D. 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 technical person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

We invite you to provide your views and comments on the ITC 52nd Report. 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. Provide specific examples to illustrate your concerns.
5. Make sure to submit your comments by the deadline in this notice.
6. 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.

II. Background

The Toxic Substances Control Act (TSCA) (15 U.S.C. 260l *et seq.*) authorizes the Administrator of the EPA to promulgate regulations under section 4(a) requiring testing of chemicals and chemical mixtures in order to develop data relevant to determining the risks that such chemicals and chemical mixtures may present to health or the environment. Section 4(e) of TSCA established the ITC to recommend chemicals and chemical mixtures to the Administrator of the EPA for priority testing consideration. Section 4(e) of TSCA directs the ITC to revise the TSCA section 4(e) *Priority Testing List* at least every 6 months.

A. The ITC's 52nd Report

The 52nd ITC Report was transmitted to the EPA's Administrator on May 30, 2003, and is included in this notice. In the 52nd ITC Report, the ITC revises the VISION.

B. Status of the Priority Testing List

The current TSCA 4(e) *Priority Testing List* as of May 2003 can be found in Table 1 of the 52nd ITC Report, which is included in this notice.

List of Subjects

Environmental protection, Chemicals, Hazardous substances.

Dated: July 11, 2003.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

Fifty-Second Report of the TSCA Interagency Testing Committee to the Administrator, U.S. Environmental Protection Agency

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SUMMARY

In this 52nd ITC Report, the ITC is not revising the *Priority Testing List*. However, the ITC is revising the Voluntary Information Submissions Innovative Online Network (VISION).

The TSCA section 4(e) *Priority Testing List* is Table 1 of this unit.

TABLE 1.— THE TSCA SECTION 4(E) PRIORITY TESTING LIST (MAY 2003)

ITC Report	Date	Chemical name/Group	Action
31	January 1993	13 Chemicals with insufficient dermal absorption rate data	Designated
32	May 1993	16 Chemicals with insufficient dermal absorption rate data	Designated
35	November 1994	4 Chemicals with insufficient dermal absorption rate data	Designated
37	November 1995	2 Alkylphenols	Recommended
41	November 1997	1 Alkylphenol	Recommended
42	May 1998	3-Amino-5-mercapto-1,2,4-triazole	Recommended
42	May 1998	Glycoluril	Recommended
47	November 2000	9 Indium compounds	Recommended
48	May 2001	Benzenamine, 3-chloro-2,6-dinitro- N,N-dipropyl-4-(trifluoromethyl)-	Recommended
49	November 2001	Stannane, dimethylbis[(1-oxoneodecyl)oxy]-	Recommended
50	May 2002	Benzene, 1,3,5-tribromo-2-(2-propenyloxy)-	Recommended
50	May 2002	1-Triazene, 1,3-diphenyl-	Recommended
51	November 2002	43 Vanadium compounds	Recommended

I. Background

The ITC was established by section 4(e) of the Toxic Substances Control Act (TSCA) ''to make recommendations to the Administrator respecting the chemical substances and mixtures to which the Administrator should give priority consideration for the promulgation of a rule for testing under section 4(a).... At least every six months ..., the Committee shall make such revisions to the *Priority Testing List* as it determines to be necessary and transmit them to the Administrator together with the Committee's reasons for the revisions'' (Public Law 94–469, 90 Stat. 2003 *et seq.*, 15 U.S.C. 2601 *et seq.*). Since its creation in 1976, the ITC has submitted 51 semi-annual (May and November) reports to the EPA Administrator transmitting the *Priority Testing List* and its revisions. ITC reports are available from the ITC's web site (*http://www.epa.gov/opptintr/itc*) within a few days of submission to the Administrator and from *http://www.epa.gov/fedrgstr/* after publication in the **Federal Register**. The ITC meets monthly and produces its revisions to the *Priority Testing List* with administrative and technical support from the ITC Staff and ITC Members and their U.S. Government organizations and contract support provided by EPA. ITC Members and Staff are listed at the end of this report.

II. TSCA Section 8 Reporting

A. TSCA Section 8 Reporting Rules

Following receipt of the ITC's report (and the revised *Priority Testing List*) by the EPA Administrator, the EPA's Office of Pollution Prevention and Toxics (OPPT) appends the chemicals added to the *Priority Testing List* to TSCA section 8(a) Preliminary Assessment Information Reporting (PAIR) and TSCA section 8(d) Health and Safety Data Reporting (HaSDR) rules. The PAIR rule requires producers and importers of Chemical Abstract Service (CAS)-numbered chemicals added to the *Priority Testing List* to submit production and exposure reports (*http://www.epa.gov/opptintr/chemtest/pairform.pdf*). The HaSDR rule requires producers, importers, and processors of all chemicals (including those with no CAS numbers) added to the *Priority Testing List* to submit unpublished health and safety studies under TSCA section 8(d) that must be in compliance with the revised HaSDR rule. (Ref. 1) All submissions must be received by the EPA within 90 days of the reporting rules **Federal Register** publication date. The reporting rules are automatically promulgated by OPPT unless otherwise requested by the ITC.

B. ITC's Use of TSCA Section 8 and Other Information

The ITC reviews the TSCA section 8(a) PAIR rule reports, TSCA section 8(d) HaSDR rule studies and other information that becomes available after the ITC adds chemicals to the *Priority Testing List*. Other information includes TSCA section 4(a) studies, TSCA section 8(c) submissions, TSCA section 8(e) ''substantial risk'' notices, ''For Your Information'' (FYI) submissions, unpublished data submitted to and from U.S. Government organizations represented on the ITC, published papers, as well as use, exposure, effects, and persistence data that

are voluntarily submitted to the ITC by manufacturers, importers, processors, and users of chemicals recommended by the ITC. The ITC reviews this information and determines if data needs should be revised, if chemicals should be removed from the *Priority Testing List* or if recommendations should be changed to designations. To avoid duplicate reporting, the ITC carefully coordinates its information solicitations and reporting requirements with other national and international testing programs, e.g., the National Toxicology Program (NTP) (*http://ntp-server.niehs.nih.gov/*), the Organization for Economic Cooperation and Development (OECD) Screening Information Data Set (SIDS) Program (*http://www.oecd.org*) and EPA's High Production Volume (HPV) Challenge Program (*http://www.epa.gov/opptintr/chemrtk/volchall.htm*).

C. Previous and New Requests to Add Chemicals to TSCA Section 8(a) PAIR Rules

The following chemicals will be added to a TSCA section 8(a) PAIR rule: Benzenamine, 3-chloro-2,6-dinitro-N,N-dipropyl-4-(trifluoromethyl)- (CAS No. 29091–20–1) (Ref. 2); stannane, dimethylbis[(1-oxoneodecyl)oxy]- (CAS No. 68928–76–7), benzene, 1,3,5-tribromo-2-(2-propenyloxy)- (CAS No. 3278–89–5) and 1-triazene, 1,3-diphenyl- (CAS No.136-35-6) (Ref. 3); and 43 vanadium compounds (Ref. 4). At this time, there are no new requests to add chemicals to the TSCA section 8(a) PAIR rule.

D. Previous and New Requests to Add Chemicals to TSCA Section 8(d) HaSDR Rules

The ITC has requested in previous reports to the EPA Adminstrator that the following chemicals be added to TSCA section 8(d) HaSDR rules: H-1,2,4-triazole-3-thione, 5-amino-1,2-dihydro- (3-amino-5-mercapto-1,2,4-triazole) (CAS No. 16691–43–3) and imidazol[4,5-d]imidazole-2,5(1H,3H)-dione, tetrahydro- (glycoluril) (CAS No. 496–46–8) (Ref. 5); 9 indium compounds (Ref. 6); benzenamine, 3-chloro-2,6-dinitro-N,N-dipropyl-4-(trifluoromethyl)- (CAS No. 29091–20–1) (Ref. 2); and stannane, dimethylbis[(1-oxoneodecyl)oxy]- (CAS No. 68928–76–7), benzene, 1,3,5-tribromo-2-(2-propenyloxy)- (CAS No. 3278–89–5) and 1-triazene, 1,3-diphenyl- (CAS No.136–35–6) (Ref. 3). At this time, the ITC is requesting that the EPA not add vanadium compounds to the TSCA section 8(d) HaSDR rule to allow producers and importers of vanadium compounds an opportunity to voluntarily provide the information requested in section IV.A.3. of the 51st ITC Report (Ref. 4).

For 3H-1,2,4-triazole-3-thione, 5-amino-1,2-dihydro- (3-amino-5-mercapto-1,2,4-triazole) and imidazo[4,5-d]imidazole-2,5-(1H,3H)-dione, tetrahydro- (glycoluril), the ITC requests that the TSCA section 8(d) HaSDR rule require the submission of pharmacokinetics, subchronic toxicity, immunotoxicity, genotoxicity, carcinogenicity, reproductive effects and developmental toxicity, and ecological effects studies. Only studies for which 3-amino-5-mercapto-1,2,4-triazole or glycoluril is ≥ 90% of the test substance by weight should be submitted.

For the 9 indium compounds remaining on the *Priority Testing List*, the ITC requests that the TSCA section 8(d) HaSDR rule require the submission of pharmacokinetics, genotoxicity, subchronic and chronic toxicity, reproductive effects and developmental toxicity studies. Only studies where indium compounds are ≥ 90% of the test substance by weight should be submitted. Indium tin oxide was inadvertently listed in the 51st ITC Report with CAS No. 17906–67–7. The correct CAS number for indium tin oxide is 50926–11–9 as listed in the 47th ITC Report. Indium tin oxide with CAS No. 50926–11–9 will be added to the TSCA section 8(d) HaSDR rule.

For benzenamine, 3-chloro-2,6-dinitro-N,N-dipropyl-4- (trifluoromethyl)-, the ITC requests that the TSCA section 8(d) HaSDR rule require the submission of biodegradation, bioconcentration, pharmacokinetics, subchronic toxicity, mutagenicity, reproductive effects and developmental toxicity, carcinogenicity, and ecological effects studies. Only studies where benzenamine, 3-chloro-2,6-dinitro-N,N-dipropyl-4- (trifluoromethyl)- is ≥ 90% of the test substance by weight should be submitted.

For stannane, dimethylbis[(1-oxoneodecyl)oxy]-, the ITC requests that the TSCA section 8(d) HaSDR rule require the submission of hydrolysis, biodegradation, bioconcentration, pharmacokinetics, subchronic toxicity, mutagenicity, neurotoxicity, reproductive effects and developmental toxicity, carcinogenicity, and ecological effects studies. Only studies where stannane, dimethylbis[(1-oxoneodecyl)oxy]- is ≥ 90% of the test substance by weight should be submitted.

For benzene, 1,3,5-tribromo-2-(2-propenyloxy)-, the ITC requests that the TSCA section 8(d) HaSDR rule require the submission of biodegradation, bioconcentration, pharmacokinetics, subchronic toxicity, neurotoxicity, reproductive effects and developmental toxicity, carcinogenicity, and ecological effects studies. Only studies where benzene, 1,3,5-tribromo-2-(2-propenyloxy)- is ≥ 90% of the test substance by weight should be submitted.

For 1-triazene, 1,3-diphenyl-, the ITC requests that the TSCA section 8(d) HaSDR rule require the submission of pharmacokinetics, genotoxicity, subchronic and chronic toxicity, reproductive effects and developmental toxicity studies. Only studies where 1-triazene, 1,3-diphenyl- is ≥ 90% of the test substance by weight should be submitted.

At this time, there are no new requests to add chemicals to the TSCA Section 8(a) HaSDR Rule.

III. ITC's Activities During this Reporting Period (November 2002 to May 2003): Voluntary Information Submissions Innovative Online Network (VISION)

In its 51st ITC Report, the ITC announced that it would consider revising its voluntary information submission procedures to encourage greater and more efficient use of its VISION. The ITC has reviewed its voluntary information submission procedures and considered industry comments discussed in the 51st ITC Report. At this time, the ITC is revising the VISION as outlined in this unit. The revised VISION will be accessible on the ITC web site following submission of this 52nd ITC Report to the EPA Administrator.

1. The ITC will continue to acknowledge trade organizations and companies that voluntarily submit information in response to an ITC solicitation. During this reporting period, the ITC acknowledges the voluntary submissions of information from the Color Pigments Manufacturers Association on DEBITS chemicals and vanadium compounds and from the Indium Corporation of America on indium compounds as requested in previous ITC reports.

2. The ITC has requested that the EPA include ITC's solicitations for voluntary information submissions in the summary and body of the preambles that are prepared for publication of the ITC's reports in the **Federal Register**. This change should allow companies to readily determine if the ITC is soliciting voluntary information for chemicals they produce or import.

3. The ITC will notify major chemical trade associations by e-mail that new ITC reports have been posted to the ITC's web site (*http://www.epa.gov/opptintr/itc/*). The e-mails will include a summary of the report and announcements of new information solicitations. This change should increase awareness of the ITC information solicitations and encourage voluntary submission of data.

4. The voluntary information submissions should be submitted within 90 days of the date the ITC report is published in the **Federal Register**. Failure to voluntarily submit information in a timely manner may lead ITC to request that the EPA promulgate the appropriate TSCA section 8(a) and 8(d) reporting rules in a subsequent report to the EPA Administrator.

5. The ITC will accept hard copy or electronic voluntary information submissions. All submissions should be titled as ITC-FYI and should bear the document control number or document ID number of the ITC report for which the submission is being provided, e.g., the docket ID number for the 50th ITC Report is OPPT-2002-0026. Confidential Business Information (CBI) must be submitted as hard copies. Both sanitized (no CBI) and unsanitized (CBI) versions must be provided.

6. Information submitted voluntarily will not have to be re-submitted under a TSCA section 8(d) rule.

7. Voluntary information may be submitted by mail, in person or by courier, or electronically.

a. *By mail*. Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

b. *In person or by courier*. OPPT Document Control Office (DCO) in EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

c. *Electronically*. By e-mail to: *oppt.ncic@epa.gov*, or mail your computer disk to the address identified above. Do not submit any information electronically that you consider to be CBI. Electronic voluntary information submissions may be submitted as Microsoft Word, WordPerfect, Excel, Integrated Scientific Information System (ISIS) Base, or pdf (portable document format) files.

8. To assure rapid review, copies of all CBI and non-CBI voluntary information submissions should also be sent to: John D. Walker, ITC Director, Office Pollution Prevention Toxic (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; e-mail: *walker.johnd@epa.gov*.

The ITC is continuing to discuss changes to the Electronic Health and Safety Data Reporting Form with the EPA along with other ways to improve electronic reporting of health and safety studies. To supplement the efforts to obtain studies in electronic format through VISION, the ITC Staff will continue to contact the producers and importers of ITC-recommended chemicals to obtain voluntary information submissions.

IV. Revisions to the TSCA Section 4(e) Priority Testing List

A. Chemicals Added to the Priority Testing List

At this time the ITC is not adding any chemicals to the *Priority Testing List*.

B. Chemicals Removed From the Priority Testing List

At this time the ITC is not removing any chemicals from the *Priority Testing List*.

V. References

1. EPA. 1998. Revisions to Reporting Regulations Under TSCA Section 8(d) (63 FR 15765, April 1, 1998) (FRL–5750–4). Available online at: *http://www.epa.gov/fedrgstr/*.

2. ITC. 2001. Forty-Eighth Report of the ITC. **Federal Register** (66 FR 51276, October 5, 2001) (FRL–6786–7). Available online at: *http://www.epa.gov/fedrgstr/*.

3. ITC. 2002. Fiftieth Report of the ITC. **Federal Register** (67 FR 49530, July 30, 2002) (FRL–7183–7). Available online at: *http://www.epa.gov/fedrgstr/*.

4. ITC. 2003. Fifty-First Report of the ITC. **Federal Register** (68 FR 8976, February 26, 2003) (FRL–7285–7). Available online at: *http://www.epa.gov/fedrgstr/*.

5. ITC. 1998. Forty-Second Report of the ITC. **Federal Register** (63 FR 42554, August 7, 1998) (FRL–5797–8). Available online at: *http://www.epa.gov/fedrgstr/*.

6. ITC. 2001. Forty-Seven Report of the ITC. **Federal Register** (66 FR 17768, April 3, 2001) (FRL–6763–6). Available online at: *http://www.epa.gov/fedrgstr/*.

VI. The TSCA Interagency Testing Committee

Statutory Organizations and Their Representatives

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Vacant

Department of Commerce

National Institute of Standards and Technology
Robert Huie, Member
Barbara C. Levin, Alternate

National Oceanographic and Atmospheric Administration
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Environmental Protection Agency
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NIEHS, FDA, and NIOSH Members

Technical Support Contractor
Syracuse Research Corporation

ITC Staff
John D. Walker, Director
Norma S. L. Williams, Executive Assistant

TSCA Interagency Testing Committee, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–7527; fax number: (202) 564–7528; e-mail address: *williams.norma@epa.gov*; url: *http://www.epa.gov/opptintr/itc*.

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LIST OF PUBLIC LAWS

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To award a congressional gold medal to Prime Minister Tony Blair. (July 17, 2003; 117 Stat. 862)

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