



# Federal Register

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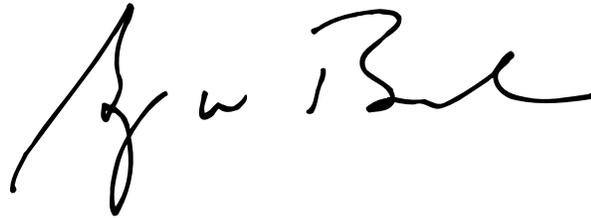
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**Title 3—****Presidential Determination No. 2003-33 of August 27, 2003****The President****Determination on Export-Import Bank Support for U.S.  
Exports to Iraq****Memorandum for the Secretary of State**

Consistent with section 2(b)(4) of the Export-Import Bank Act of 1945, as amended, I hereby determine and certify to the Congress that it is in the national interest for the Export-Import Bank to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to Iraq.

You are directed to report this determination to the Congress and to provide copies of the justification explaining the basis for this determination. You are further directed to publish this determination in the **Federal Register**.



THE WHITE HOUSE,  
*Washington, August 27, 2003.*

# Rules and Regulations

Federal Register

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Friday, September 5, 2003

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

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.

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### 5 CFR Part 6501

RINs 3136-AA20, 3209-AA15

### Supplemental Standards of Ethical Conduct for Employees of the National Endowment for the Arts

**AGENCY:** National Endowment for the Arts (NEA).

**ACTION:** Interim final rule, with request for comments.

**SUMMARY:** The National Endowment for the Arts, with the concurrence of the Office of Government Ethics (OGE), is issuing regulations for officers and employees of the NEA that supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. The supplemental regulations require NEA employees, other than special Government employees, to obtain prior written approval to engage in certain outside employment or related activities.

**DATES:** These regulations take effect on September 5, 2003. Comments are invited and must be received on or before October 6, 2003.

**ADDRESSES:** Send comments to Karen Elias, Deputy General Counsel, National Endowment for the Arts, Room 518, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

**FOR FURTHER INFORMATION CONTACT:** Karen Elias, Deputy General Counsel, National Endowment for the Arts, Room 518, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. Telephone (202) 682-5418. Individuals who use a telecommunications device for the deaf (TDD) may contact the NEA's TDD terminal at (202) 682-5496 Voice/T.T.

#### SUPPLEMENTARY INFORMATION:

##### 1. Background

On August 7, 1992, OGE published in the **Federal Register** new Standards of Ethical Conduct for Employees of the Executive Branch (the "Standards"), 57 FR 35006-35067. The Standards, as corrected and amended, are codified at 5 CFR part 2635 and generally became effective February 3, 1993. Those regulations established uniform standards of ethical conduct that apply to all executive branch personnel.

With the concurrence of OGE, 5 CFR 2635.105 authorizes executive branch agencies to publish agency-specific supplemental regulations necessary to implement their respective ethics programs. With OGE's concurrence, the NEA has determined that the following supplemental regulations contained in a new chapter LV, consisting of part 6501, of 5 CFR as set forth in this interim rule are necessary to implement the NEA's ethics program successfully, in light of the NEA's unique programs and operations.

The Foundation's old standards of conduct regulations at 45 CFR part 1105 were applicable to employees of both the NEA and the National Endowment for the Humanities (NEH) until they were superseded by the executive branchwide Standards at 5 CFR part 2635, and by OGE's executive branchwide financial disclosure regulations at 5 CFR part 2634. In a separate rulemaking document being published in the **Federal Register** today, the Foundation's superseded old conduct regulations and certain redundant provisions thereof are being removed and 45 CFR part 1105 is being revised to contain a cross-reference section referring to the NEA's and the NEH's new supplemental regulations (also being published in the **Federal Register** today), to 5 CFR parts 2634 and 2635, to 5 CFR part 2640, OGE's executive branch financial interest regulations, and to the executive branchwide employee responsibilities and conduct regulations issued by the Office of Personnel Management, as codified at 5 CFR part 735.

##### II. Analysis of the Regulations

###### *Section 6501.101 General*

Section 6501.101 explains that the regulations contained in this interim

rule will apply to NEA employees and are supplemental to the executive branchwide standards. Employees of the NEA are also subject to the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, the executive branch financial disclosure and financial interests regulations at 5 CFR parts 2634 and 2640, and the executive branch employees responsibilities and conduct regulations at 5 CFR part 735.

###### *Section 6501.102 Prior Approval for Outside Employment*

Under 5 CFR 2635.803, an agency that determines it is necessary or desirable for the purposes of administering its ethics program may, by supplemental regulation with OGE's concurrence and co-signature, require its employees to obtain written approval before engaging in outside employment. The Foundation's superseded regulation at 45 CFR part 1105 required NEA employees to obtain advance approval for certain outside employment (that advance approval requirement remained in effect until February 3, 1994 by operation of the prior note following 5 CFR 2635.803 of the Standards (see the January 1, 1997 edition of 5 CFR)). The NEA has determined that it is necessary to the administration of its ethics program to reinstitute the requirement that employees, other than special Government employees, obtain prior approval before engaging in certain types of outside employment that pose the most potential for employees to engage in conduct that might violate applicable conflicts laws and regulations.

Therefore, § 6501.102(a) requires prior approval of outside employment when the outside employment involves a prohibited source. In identifying a "prohibited source" for purposes of this prior approval requirement, the NEA will apply the definition of that term found in the Standards at 5 CFR 2635.203(d). Thus, an employee will have to obtain approval before engaging in outside employment with any person (including an organization more than half of whose members are persons) seeking official action by the NEA; doing business or seeking to do business with the NEA; conducting activities regulated by the NEA; or having interests that may be substantially affected by the performance or

nonperformance of the employee's official duties. Section 6501.102(a) also requires written requests for approval to be submitted to the employee's immediate supervisor and his or her Designated Agency Ethics Official and specifies the information to be included in the employee's request. Section 6501.102(b) states the standard to be used in approving or denying requests for approval of outside employment. The basis for denial, if any, must be found in applicable statutes or Federal regulations, including the executive branchwide Standards.

Section 6501.102(c) defines outside employment as including any form of compensated or uncompensated non-Federal employment or business relationship involving the provision of personal services by the employee. It includes writing done under arrangement with another person for production or publication of the written product.

### III. Matters of Regulatory Procedure

#### *Waiver of Proposed Rulemaking*

As Deputy General Counsel of the NEA, I have found good cause pursuant to 5 U.S.C. 553(b) and (d)(3) for waiving, as unnecessary and contrary to the public interest, the general notice of proposed rulemaking, the opportunity for advance public comments, and the 30-day delay in effectiveness as to this interim rule. The reason for this determination is that this rulemaking is related to the NEA's organization, procedure and practice. Nonetheless, this is an interim rulemaking, with provision for a 30-day public comment period. The NEA will review all comments received during the comment period and will consider any modifications that appear appropriate in adopting these rules as final, with the concurrence and co-signature of the Office of Government Ethics.

#### *Regulatory Flexibility Act*

As Deputy General Counsel of the NEA, I have determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects NEA employees.

#### *Paperwork Reduction Act*

As Deputy General Counsel of the NEA, I have determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because these regulations do not contain any information collection requirements that require the approval of the Office of Management and Budget.

#### *Unfunded Mandates Reform Act*

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, or by the private sector, of \$100 million or more (as adjusted for inflation) in any one year.

#### List of Subjects in 5 CFR Part 6501

Conflict of interests, Government employees, Standards of conduct.

Dated: August 13, 2003.

**Karen Elias,**

*Deputy General Counsel, National Endowment for the Arts.*

Approved: August 26, 2003.

**Amy L. Comstock,**

*Director, Office of Government Ethics.*

■ For the reasons set forth in the preamble, the National Endowment for the Arts with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations by adding a new chapter LV, consisting of part 6501, to read as follows:

#### CHAPTER LV—NATIONAL ENDOWMENT FOR THE ARTS

##### PART 6501—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE NATIONAL ENDOWMENT FOR THE ARTS

Sec.

6501.101 General.

6501.102 Prior approval for outside employment.

**Authority:** 5 U.S.C. 7301, 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.803.

#### § 6501.101 General.

In accordance with 5 CFR 2635.105, the regulations of this part apply to employees of the National Endowment for the Arts (NEA) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. In addition to the regulations in 5 CFR part 2635 and this part, employees of the NEA are subject to the executive branch employee responsibilities and conduct regulations at 5 CFR part 735, the executive branch financial disclosure regulations at 5 CFR part 2634, and the executive branch financial interests regulations at 5 CFR part 2640.

#### § 6501.102 Prior approval for outside employment.

(a) Before engaging in any outside employment with a prohibited source within the meaning of 5 CFR 2635.203(d), whether or not for compensation, an employee other than a special Government employee must obtain written approval from his or her immediate supervisor and the Designated Agency Ethics Official. The request for approval shall include the following:

(1) The name of the person, group or other organization for whom the work is to be performed, the type of work to be performed, and the proposed hours of work and approximate dates of employment; and

(2) A description of the employee's NEA responsibilities and the employee's certification that the outside employment will not depend on nonpublic information obtained as a result of the employee's official Government position and that no official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside employment.

(b) Approval shall be granted only upon determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

(c) *Outside employment* means any form of compensated or uncompensated non-Federal employment or business relationship involving the provision of personal services by the employee. It includes, but is not limited to personal services such as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher or speaker. It includes writing when done under an arrangement with another person for production or publication of the written product.

[FR Doc. 03-22653 Filed 9-4-03; 8:45 am]

BILLING CODE 7537-01-P

#### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

##### 5 CFR Part 6601

RINs 3136-AA21, 3209-AA15

#### Supplemental Standards of Ethical Conduct for Employees of the National Endowment for the Humanities

**AGENCY:** National Endowment for the Humanities (NEH).

**ACTION:** Interim final rule, with request for comments.

**SUMMARY:** The National Endowment for the Humanities, with the concurrence of the Office of Government Ethics (OGE), is issuing regulations for officers and employees of the NEH that supplement the Standards of Ethics Conduct for Employees of the Executive Branch issued by OGE. The supplemental regulations require NEH employees, other than special Government employees, to obtain prior written approval to engage in certain outside employment or related activities.

**DATES:** These regulations take effect on September 5, 2003. Comments are invited and must be received on or before October 6, 2003.

**ADDRESSES:** Send comments to Heather Gottry, Assistant General Counsel, National Endowment for the Humanities, Room 529, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

**FOR FURTHER INFORMATION CONTACT:** Heather Gottry, Assistant General Counsel, National Endowment for the Humanities, Room 529, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. Telephone (202) 606-8322. Individuals who use a telecommunications device for the deaf (TDD) may contact the NEH's TDD terminal at (202) 606-8282 Voice/T.T or (866) 372-2930.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On August 7, 1992, OGE published in the **Federal Register** new Standards of Ethical Conduct for Employees of the Executive branch (the "Standards") (57 FR 35006-35067). The Standards, as corrected and amended, are codified at 5 CFR part 2635 and generally became effective February 3, 1993. Those regulations established uniform standards of ethical conduct that apply to all executive branch personnel.

With the concurrence of OGE, 5 CFR part 2635.105 authorizes executive branch agencies to publish agency-specific supplemental regulations necessary to implement their respective ethics programs. With OGE's concurrence, the NEH has determined that the following supplemental regulations contained in a new chapter LVI, consisting of part 6601, of 5 CFR as set forth in this interim rule, are necessary to implement the NEH's ethics program successfully, in light of the NEH's unique programs and operations.

The Foundation's old standard of conduct regulations at 45 CFR were applicable to employees of both the NEH and the National Endowment for the Arts (NEA) until they were

superseded by the executive branchwide Standards at 5 CFR part 2635, and by OGE's executive branchwide financial disclosure regulations at 5 CFR part 2634. In a separate rulemaking document being published in the **Federal Register** today, the Foundation's superseded old conduct regulations and certain redundant provisions thereof are being removed and 45 CFR part 1105 is being revised to contain a cross-reference section to the NEH's and the NEA's new supplemental regulations (also being published in the **Federal Register** today); to 5 CFR parts 2634 and 2635, to 5 CFR part 2640, OGE's executive branch financial interest regulations, and to the executive branchwide employee responsibilities and conduct regulations issued by the Office of Personnel Management, as codified at 5 CFR part 735.

### II. Analysis of the Regulations

#### *Section 6601.101 General*

Section 6601.101 explains that the regulations contained in this interim rule will apply to NEH employees and are supplemental to the executive branchwide standards. Employees of the NEH are also subject to the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, the executive branch financial disclosure and financial interests regulations at 5 CFR parts 2634 and 2640, and the executive branch employees responsibilities and conduct regulations at 5 CFR part 735.

#### *Section 6601.102 Prior Approval for Outside Employment*

Under 5 CFR 2635.803, an agency that determines it is necessary or desirable for the purposes of administering its ethics program may, by supplemental regulation with OGE's concurrence and co-signature, require its employees to obtain written approval before engaging in outside employment. The Foundation's superseded regulation at 45 CFR part 1105 required NEH employees to obtain advance approval for certain outside employment. That NEH advance approval requirement remained in effect until February 3, 1995 by operation of the prior note following 5 CFR part 2635.803 of the Standards and prior appendix A to 5 CFR part 2635 (see the January 1, 1997 edition of 5 CFR and 59 FR 4779-4780 (February 2, 1994)). The NEH has determined that it is necessary to the administration of its ethics program to reinstitute the requirement that employees, other than special Government employees, obtain prior

approval before engaging in certain types of outside employment that may pose the most potential for employees to violate applicable conflicts laws and regulations.

Therefore, § 6601.102(a) requires prior approval of outside employment when the outside employment involves a prohibited source. In identifying a "prohibited source" for purposes of this prior approval requirement, the NEH will apply the definition of that term found in the Standards at 5 CFR part 2635.203(d). Thus, an employee would have to obtain approval before engaging in outside employment with any person (including an organization more than half of whose members are persons) seeking official action by the NEH; doing business or seeking to do business with the NEH; conducting activities regulated by the NEH; or having interests that may be substantially affected by the performance or nonperformance of the employee's official duties. Section 6601.102(a) also requires written requests for approval to be submitted to the employee's immediate supervisor and his or her Designated Agency Ethics Official and specifies the information to be included in the employee's request. Section 6601.102(b) states the standard to be used in approving or denying requests for approval of outside employment. The basis for denial, if any, must be found in applicable statutes or Federal regulations, including the executive branchwide Standards.

Section 6601.102(c) defines outside employment as including any form of compensated or uncompensated non-Federal employment or business relationship involving the provision of personal services by the employee. It includes writing done under arrangement with another person for production or publication of the written product.

### III. Matters of Regulatory Procedure

#### *Waiver of Proposed Rulemaking*

As Deputy General Counsel of the NEH, I have found good cause pursuant to 5 U.S.C. 553(b) and (d)(3) for waiving, as unnecessary and contrary to the public interest, the general notice of proposed rulemaking, the opportunity for advance public comment, and the 30-day delay in effectiveness as to this interim rule. The reason for this determination is that this rulemaking is related to the NEH's organization, procedure and practice. Nonetheless, this is an interim rulemaking with provision for a 30-day public comment period. The NEH will review all comments received during the comment

period and will consider any modifications that appear appropriate in adopting these rules as final with the concurrence and co-signature of the Office of Government Ethics.

#### *Regulatory Flexibility Act*

As Deputy General Counsel of the NEH, I have determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects NEH employees.

#### *Paperwork Reduction Act*

As Deputy General Counsel of the NEH, I have determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because these regulations do not contain any information collection requirements that require the approval of the Office of Management and Budget.

#### *Unfunded Mandates Reform Act*

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, or by the private sector, of \$100 million or more (as adjusted for inflation) in any one year.

#### **List of Subjects in 5 CFR Part 6601**

Conflict of interests, Government employees, Standards of conduct.

Dated: August 13, 2003.

**Michael McDonald,**

*Deputy General Counsel and Acting Designated Agency Ethics Officer, National Endowment for the Humanities.*

Approved: August 27, 2003.

**Amy L. Comstock,**

*Director, Office of Government Ethics.*

■ For the reasons set forth in the preamble, the National Endowment for the Humanities, with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations by adding a new chapter LVI, consisting of part 6601, to read as follows:

#### **CHAPTER LVI—NATIONAL ENDOWMENT FOR THE HUMANITIES**

##### **PART 6601—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES**

Sec.

6601.101 General.

6601.102 Prior approval for outside employment.

**Authority:** 5 U.S.C. 7301, 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.803.

#### **§ 6601.101 General.**

In accordance with 5 CFR part 2635.105, the regulations of this part apply to employees of the National Endowment for the Humanities (NEH) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. In addition to the regulations in 5 CFR part 2635 and this part, employees of the NEH are subject to the executive branch employee responsibilities and conduct regulations at 5 CFR part 735, the executive branch financial disclosure regulations at 5 CFR part 2634, and the executive branch financial interests regulations at 5 CFR part 2640.

#### **§ 6601.102 Prior approval for outside employment.**

(a) Before engaging in any outside employment with a prohibited source within the meaning of 5 CFR 2635.203(d), whether or not for compensation, an employee other than a special Government employee must obtain written approval from his or her immediate supervisor and the Designated Agency Ethics Official. The request for approval shall include the following:

(1) A brief description of the employee's official duties, a brief description of the proposed outside employment (including the name of the person, group or other organization for whom the work is to be performed), and a brief description of the employee's discipline or inherent area of expertise based on experience or educational background; and

(2) Responses to the following questions:

(i) Whether the proposed outside employment will draw on non-public information or pertain to a matter to which the employee is presently assigned or has been assigned within the last year;

(ii) Whether the proposed outside employment pertains to an ongoing or announced agency policy or program;

(iii) Whether the proposed outside employment will involve teaching a course which is part of the established curriculum of an accredited institution of higher education, secondary school, elementary school, or an education or training program sponsored by a Federal, State or local government entity;

(iv) Whether the sponsor of the proposed outside employment has any interests before the NEH that may be substantially affected by the performance or nonperformance of the employee's duties;

(v) Whether the employee intends to refer to his or her official NEH position during the proposed outside employment, and, if so, the text of any disclaimers that he or she will use; and

(vi) Whether the employee will receive any payment or compensation for the proposed activity, and, if so, how much.

(b) Approval shall be granted only upon determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

(c) Outside employment means any form of compensated or uncompensated non-Federal employment or business relationship involving the provision of personal services by the employee. It includes, but is not limited to, personal services such as acting as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher or speaker. It includes writing done under arrangement with another person for production or publication of any written product.

[FR Doc. 03-22654 Filed 9-4-03; 8:45 am]

BILLING CODE 7536-01-P

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 25**

**[Docket No. NM248; Special Conditions No. 25-241-SC]**

#### **Special Conditions: Embraer Model ERJ-170 series airplanes; Electronic Flight Control Systems; Automatic Takeoff Thrust Control System**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions.

**SUMMARY:** These special conditions are issued for the Embraer Model ERJ-170 series airplanes. These airplanes will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These design features are associated with (1) Electronic Flight Control Systems and (2) Automatic Takeoff Thrust Control System (ATTCS). The applicable airworthiness regulations do not contain adequate or appropriate safety standards

for these design features. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for other novel or unusual design features of Embraer Model 170 series airplanes.

**EFFECTIVE DATE:** August 15, 2003.

**FOR FURTHER INFORMATION CONTACT:** Tom Groves, FAA, International Branch, ANM-116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (425) 227-1503; facsimile (425) 227-1149; email [tom.groves@faa.gov](mailto:tom.groves@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 20, 1999, Embraer applied for a type certificate for its new Model ERJ-170 airplane. Two basic versions of the Model ERJ-170 are included in the application. The ERJ-170-100 airplane is a 69-78 passenger, twin-engine regional jet with a maximum takeoff weight of 81,240 pounds. The ERJ-170-200 is a derivative with a lengthened fuselage. Passenger capacity for the ERJ-170-200 is increased to 86, and maximum takeoff weight is increased to 85,960 pounds.

**Type Certification Basis**

Under the provisions of 14 CFR 21.17, Embraer must show that the Model ERJ-170 series airplanes meet the applicable provisions of 14 CFR part 25, as amended by Amendments 25-1 through 25-98.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, part 25, as amended) do not contain adequate or appropriate safety standards for Embraer Model ERJ-170 series airplanes because of novel or unusual design features, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, Embraer Model ERJ-170 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy pursuant to § 611 of Public Law 93-574, the "Noise Control Act of 1972."

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with

§ 21.17(a)(2), Amendment 21-69, effective September 16, 1991.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporate the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design features, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1), Amendment 21-69, effective September 16, 1991.

**Novel or Unusual Design Features**

The Embraer Model ERJ-170 series airplanes will incorporate the following novel or unusual design features:

*I. Electronic Flight Control System*

In airplanes with electronic flight control systems, there may not always be a direct correlation between pilot control position and the associated airplane control surface position. Under certain circumstances, a commanded maneuver that does not require a large control input may require a large control surface movement, possibly encroaching on a control surface or actuation system limit without the flightcrew's knowledge. This situation can arise in either manually piloted or autopilot flight and may be further exacerbated on airplanes where the pilot controls are not back-driven during autopilot system operation. Unless the flightcrew is made aware of excessive deflection or impending control surface limiting, control of the airplane by the pilot or autoflight system may be inadvertently continued so as to cause loss of control of the airplane or other unsafe characteristics of stability or performance.

Given these possibilities, a special condition for Embraer Model ERJ-170 series airplanes addresses control surface position awareness. This special condition requires that suitable display or annunciation of flight control position be provided to the flightcrew when near full surface authority (not crew-commanded) is being used, unless other existing indications are found adequate or sufficient to prompt any required crew actions. Suitability of such a display or annunciation must take into account that some piloted maneuvers may demand the airplane's maximum performance capability, possibly associated with a full control surface deflection. Therefore, simple display systems—that would function in both intended and unexpected control-

limiting situations—must be properly balanced to provide needed crew awareness and minimize nuisance alerts. A monitoring system that compares airplane motion, surface deflection, and pilot demand could be useful in eliminating nuisance alerting.

*II. Automatic Takeoff Thrust Control System (ATTCS)*

The Embraer Model ERJ-170 series airplane will incorporate an Automatic Takeoff Thrust Control System (ATTCS) in the engine's Full Authority Digital Electronic Control (FADEC) system architecture. The manufacturer requested that the FAA issue special conditions to allow performance credit to be taken for use of this function during go-around to show compliance with the requirement of § 25.121(d) regarding the approach climb gradient.

Section 25.904 and Appendix I refer to operation of ATTCS only during takeoff. Model ERJ-170 series airplanes have this feature for go-around also. The ATTCS will automatically increase thrust to the maximum go-around thrust available under the ambient conditions in the following circumstances:

- If an engine failure occurs during an all-engines-operating go-around, or
- If an engine has failed or been shut down earlier in the flight.

This maximum go-around thrust is the same as that used to show compliance with the approach-climb-gradient requirement of § 25.121(d). If the ATTCS is not operating, selection of go-around thrust will result in a lower thrust level.

The part 25 standards for ATTCS, contained in § 25.904 [Automatic takeoff thrust control system (ATTCS) and Appendix I], specifically restrict performance credit for ATTCS to takeoff. Expanding the scope of the standards to include other phases of flight, such as go-around, was considered when the standards were issued but was not accepted because of the effect on the flightcrew's workload. As stated in the preamble to amendment 25-62:

In regard to ATTCS credit for approach climb and go-around maneuvers, current regulations preclude a higher thrust for the approach climb [§ 25.121(d)] than for the landing climb [§ 25.119]. The workload required for the flightcrew to monitor and select from multiple in-flight thrust settings in the event of an engine failure during a critical point in the approach, landing, or go-around operations is excessive. Therefore, the FAA does not agree that the scope of the amendment should be changed to include the use of ATTCS for anything except the takeoff phase." (Refer to 52 FR 43153, November 9, 1987.)

The ATTCS incorporated on Embraer Model ERJ-170 series airplanes allows the pilot to use the same power setting procedure during a go-around, regardless of whether or not an engine fails. In either case, the pilot obtains go-around power by moving the throttles into the forward (takeoff/go-around) throttle detent. Since the ATTCS is permanently armed for the go-around phase, it will function automatically following an engine failure and advance the remaining engine to the ATTCS thrust level. This design adequately addresses the concerns about pilot workload which were discussed in the preamble to Amendment 25-62.

The system design allows the pilot to enable or disable the ATTCS function for takeoff. If the pilot enables ATTCS, a white "ATTCS" icon will be displayed on the Engine Indication and Crew Alerting System (EICAS) beneath the thrust mode indication on the display. This white icon indicates to the pilot that the ATTCS function is enabled. When the throttle lever is put in the TO/GA (takeoff/go-around) detent position, the white icon turns green, indicating to the pilot that the ATTCS is armed. If the pilot disables the ATTCS function for takeoff, no indication appears on the EICAS.

Regardless of whether the ATTCS is enabled for takeoff, it is automatically enabled when the airplane reaches the end of the take-off phase (that is, the thrust lever is below the TO/GA position and the altitude is greater than 1,700 feet above the ground, 5 minutes have elapsed since lift-off, or the airplane speed is greater than 140 knots).

During climb, cruise and descent, when the throttle is not in the TO/GA position, the ATTCS indication is inhibited. During descent and approach to land, until the thrust management system go-around mode is enabled—either by crew action or automatically when the landing gear are down and locked and flaps are extended—the ATTCS indication remains inhibited.

When the go-around thrust mode is enabled, unless the ATTCS system has failed, the white "ATTCS" icon will again be shown on the EICAS, indicating to the pilot that the system is enabled and in an operative condition in the event a go-around is necessary. If the thrust lever is subsequently placed in the TO/GA position, the ATTCS icon turns green, indicating that the system is armed and ready to operate.

If an engine fails during the go-around or during a one-engine-inoperative go-around in which an engine had been shut down or otherwise made inoperative earlier in the flight, the

EICAS indication will be GA RSV (go-around reserve) when the thrust levers are placed in the TO/GA position. The GA RSV indication means that the maximum go-around thrust under the ambient conditions has been commanded.

The propulsive thrust used to determine compliance with the approach climb requirements of § 25.121(d) is limited to the lesser of (i) the thrust provided by the ATTCS system, or (ii) 111 percent of the thrust resulting from the initial thrust setting with the ATTCS system failing to perform its uptrim function and without action by the crew to reset thrust. This requirement limits the adverse performance effects of a failure of the ATTCS and ensures adequate all-engines-operating go-around performance.

These special conditions require a showing of compliance with the provisions of § 25.904 and Appendix I applicable to the approach climb and go-around maneuvers.

The definition of a critical time interval for the approach climb case is of primary importance. During this time it must be extremely improbable to violate a flight path derived from the gradient requirement of § 25.121(d). That gradient requirement implies a minimum one-engine-inoperative flight path with the airplane in the approach configuration. The engine may have been inoperative before initiating the go-around, or it may become inoperative during the go-around. The definition of the critical time interval must consider both possibilities.

#### Discussion of Comments

Notice of proposed special conditions No. 25-03-03-SC for the Embraer Model ERJ-170 series airplane was published in the **Federal Register** on April 23, 2003 (68 FR 19958) and a Supplemental notice of proposed special conditions was published on June 5, 2003 (68 FR 33659). No comments were received after publication of the initial notice or the supplemental notice, and the special conditions are adopted as proposed.

#### Applicability

As discussed above, these special conditions are applicable to the Embraer Model ERJ-170 series airplanes. Should Embraer apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1), Amendment 21-69, effective September 16, 1991.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Embraer Model ERJ-170 series airplane is imminent, the FAA finds that good cause exists to make these special conditions effective upon issuance.

#### Conclusion

This action affects only certain novel or unusual design features on the Embraer Model ERJ-170 series airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

#### List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

#### The Special Conditions

■ Accordingly, the Federal Aviation Administration (FAA) issues the following special conditions as part of the type certification basis for Embraer Model ERJ-170 series airplanes.

##### I. Electronic Flight Control System

In addition to compliance with §§ 25.143, 25.671 and 25.672, when a flight condition exists where, without being commanded by the crew, control surfaces are coming so close to their limits that return to the normal flight envelope and (or) continuation of safe flight requires a specific crew action, a suitable flight control position annunciation shall be provided to the crew, unless other existing indications are found adequate or sufficient to prompt that action.

**Note:** The term suitable also indicates an appropriate balance between nuisance and necessary operation.

##### II. Automatic Takeoff Thrust Control System (ATTCS)

To use the thrust provided by the ATTCS to determine the approach climb performance limitations, the Embraer Model ERJ-170 series airplane must comply with the requirements of § 25.904 and Appendix I, including the following requirements pertaining to the go-around phase of flight:

###### 1. Definitions

(a) *TOGA—(Take Off/Go-Around)*. Throttle lever in takeoff or go-around position.

(b) *Automatic Takeoff Thrust Control System—(ATTCS)*. The Embraer Model ERJ-170 series ATTCS is defined as the entire automatic system available in takeoff when selected by the pilot and always in go-around mode; including all devices, both mechanical and electrical, that sense engine failure, transmit signals, and actuate fuel controls or power levers or increase engine power by other means on operating engines to achieve scheduled thrust or power increases and to furnish cockpit information on system operation.

(c) *Critical Time Interval*. The definition of the Critical Time Interval in appendix I, § I25.2(b) shall be expanded to include the following:

(1) When conducting an approach for landing using ATTCS, the critical time interval is defined as 120 seconds. A shorter time interval may be used if justified by a rational analysis. An accepted analysis that has been used on past aircraft certification programs is as follows:

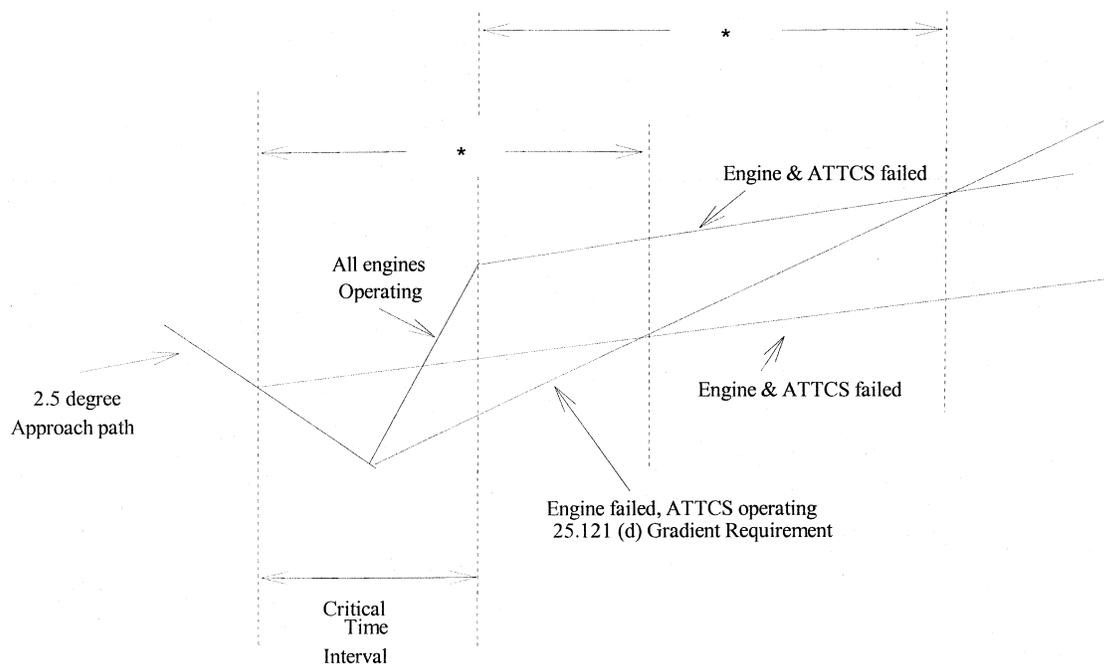
(i) The critical time interval begins at a point on a 2.5 degree approach glide path from which, assuming a simultaneous engine and ATTCS failure, the resulting approach climb flight path intersects a flight path originating at a later point on the same approach path corresponding to the part 25 one-engine-inoperative approach climb gradient. The period of time from the point of simultaneous engine and ATTCS failure to the intersection of these flight paths must be no shorter than the time interval used in evaluating the critical time interval for takeoff, beginning from the point of simultaneous engine and ATTCS failure and ending upon reaching a height of 400 feet.

(ii) The critical time interval ends at the point on a minimum performance, all-engines-operating go-around flight path from which, assuming a simultaneous engine and ATTCS failure, the resulting minimum approach climb flight path intersects a

flight path corresponding to the part 25 minimum one-engine-inoperative approach-climb-gradient. The all-engines-operating go-around flight path and the part 25 one-engine-inoperative, approach-climb-gradient flight path originate from a common point on a 2.5 degree approach path. The period of time from the point of simultaneous engine and ATTCS failure to the intersection of these flight paths must be no shorter than the time interval used in evaluating the critical time interval for the takeoff beginning from the point of simultaneous engine and ATTCS failure and ending upon reaching a height of 400 feet.

(2) The critical time interval must be determined at the altitude resulting in the longest critical time interval for which one-engine-inoperative approach climb performance data are presented in the Airplane Flight Manual (AFM).

(3) The critical time interval is illustrated in the following figure:



The engine and ATTCS failed time interval must be no shorter than the time interval from the point of simultaneous engine and ATTCS failure to a height of 400 feet used to comply with I25.2(b) for ATTCS use during takeoff.

## 2. Performance and System Reliability Requirements.

The applicant must comply with the following performance and ATTCS reliability requirements:

(a) An ATTCS failure or combination of failures in the ATTCS during the critical time interval:

(1) Shall not prevent the insertion of the maximum approved go-around thrust or power or must be shown to be an improbable event.

(2) Shall not result in a significant loss or reduction in thrust or power or must be shown to be an extremely improbable event.

(b) The concurrent existence of an ATTCS failure and an engine failure

during the critical time interval must be shown to be extremely improbable.

(c) All applicable performance requirements of part 25 must be met with an engine failure occurring at the most critical point during go-around with the ATTCS system functioning.

(d) The probability analysis must include consideration of ATTCS failure occurring after the time at which the flightcrew last verifies that the ATTCS is in a condition to operate until the beginning of the critical time interval.

(e) The propulsive thrust obtained from the operating engine after failure of the critical engine during a go-around used to show compliance with the one-engine-inoperative climb requirements of § 25.121(d) may not be greater than the lesser of:

(i) The actual propulsive thrust resulting from the initial setting of power or thrust controls with the ATTCS functioning; or

(ii) 111 percent of the propulsive thrust resulting from the initial setting of power or thrust controls with the ATTCS failing to reset thrust or power and without any action by the crew to reset thrust or power.

### 3. Thrust Setting.

(a) The initial go-around thrust setting on each engine at the beginning of the go-around phase may not be less than any of the following:

(1) That required to permit normal operation of all safety-related systems and equipment dependent upon engine thrust or power lever position; or

(2) That shown to be free of hazardous engine response characteristics when thrust or power is advanced from the initial go-around position to the maximum approved power setting.

(b) For approval of an ATTCS for go-around, the thrust setting procedure must be the same for go-arounds initiated with all engines operating as for go-arounds initiated with one engine inoperative.

### 4. Powerplant Controls.

(a) In addition to the requirements of § 25.1141, no single failure or malfunction, or probable combination thereof, of the ATTCS, including associated systems, may cause the failure of any powerplant function necessary for safety.

(b) The ATTCS must be designed to accomplish the following:

(1) Following any single engine failure during go around: Apply thrust or power on the operating engine(s) to achieve the maximum approved go-around thrust without exceeding engine operating limits;

(2) Permit manual decrease or increase in thrust or power up to the maximum go-around thrust approved for the airplane under existing conditions through the use of the power lever. For airplanes equipped with limiters that automatically prevent engine operating limits from being exceeded under existing ambient conditions, other means may be used to increase the thrust in the event of an ATTCS failure. Any such means must be located on or forward of the power levers; be easily identified and operated under all operating conditions by a single action of either pilot with the

hand that is normally used to actuate the power levers, and meet the requirements of § 25.777 (a), (b), and (c);

(3) Provide a means to verify to the flightcrew before beginning an approach for landing that the ATTCS is in a condition to operate (unless it can be demonstrated that an ATTCS failure combined with an engine failure during an entire flight is extremely improbable); and

(4) Provide a means for the flightcrew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation.

5. In addition to the requirements of § 25.1305, the following requirements pertaining to powerplant instruments must be met:

(a) A means must be provided to indicate when the ATTCS is in the armed or ready condition; and

(b) If the inherent flight characteristics of the airplane do not provide adequate warning that an engine has failed, a warning system that is independent of the ATTCS must be provided to give the pilot a clear warning of any engine failure during go-around.

Issued in Renton, Washington, on August 15, 2003.

**Kyle Olsen,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 03-22565 Filed 9-4-03; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2001-NM-187-AD; Amendment 39-13293; AD 2003-18-02]

RIN 2120-AA64

#### Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330 and A340 series airplanes, that requires, among other actions, a detailed inspection of the rudder travel limitation unit for proper adjustment, measurement of the desynchronization of rudder servo-controls, installation of rigging placards for rudder servo-controls, and follow-on and corrective actions if necessary. This action is necessary to prevent desynchronization of the rudder servo-controls, which

could result in high load factors on the rudder servo-controls, and consequent reduced structural integrity of the attachment fittings for the rudder servo-controls. This action is intended to address the identified unsafe condition.

**DATES:** Effective October 10, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 10, 2003.

**ADDRESSES:** The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2125; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A330 and A340 series airplanes was published in the **Federal Register** on May 29, 2003 (68 FR 31991). That action proposed to require, among other actions, a detailed inspection of the rudder travel limitation unit for proper adjustment, measurement of the desynchronization of rudder servo-controls, installation of rigging placards for rudder servo-controls, and follow-on and corrective actions if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

#### Request To Extend Compliance Time

Two commenters request that the compliance time of the proposed AD be extended from 16 months to 18 months. One of the commenters is the operator of the nine U.S.-registered Airbus Model A330 airplanes affected by the proposed AD. Extension of the compliance time to 18 months would match the Airbus C-check interval. The second commenter supports the comments of the first commenter and offers no additional comment.

The FAA does not agree with the commenters' request to extend the

compliance time. The operator has completed the required inspection on five of its nine airplanes. The operator plans to inspect the remaining four airplanes in its fleet at the next C-check, scheduled to begin in late 2003. Of the five airplanes already inspected, the operator indicates that it has found two airplanes with desynchronized servo-controls. Based upon those inspection results the FAA finds that it may be possible for the remaining airplanes to also have desynchronized servo-controls. Such desynchronized servo-controls could cause cracks on the rudder servo-control bearing and attachment, leading to reduced structural integrity of the rudder servo-control attachment fitting. Therefore, we do not consider that an extension is appropriate. Operators always have the option to request approval of an alternative method of compliance if it provides an equivalent level of safety. No change to the final rule is necessary regarding this issue.

#### Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

#### Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

#### Change to Labor Rate Estimate

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from \$60 per work hour to \$65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

#### Cost Impact

The FAA estimates that 9 Airbus Model A330 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 work hours per airplane to accomplish the required inspection and measurement, and 1 work hour per airplane to accomplish

the required installation of the rigging placards, and that the average labor rate is \$65 per work hour. Required rigging placards will be provided to the operators at no cost. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$4,095, or \$455 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Currently, there are no Airbus Model A340 series airplanes on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it would require 6 work hours per airplane to accomplish the required inspection and measurement, and 1 work hour per airplane to accomplish the required installation of the rigging placards, at an average labor rate of \$65 per work hour. Required placards would be provided to the operators at no cost. Based on these figures, the cost impact of the AD for Model A340 operators would be \$455 per airplane.

#### Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**2003-18-02 Airbus:** Amendment 39-13293. Docket 2001-NM-187-AD.

**Applicability:** Model A330 and A340 series airplanes, certificated in any category; except those airplanes modified in production in accordance with Airbus Modification 48110.

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

**Compliance:** Required as indicated, unless accomplished previously.

To prevent desynchronization of the rudder servo-controls, which could result in high load factors on the rudder servo-controls, and consequent reduced structural integrity of the attachment fittings for the rudder servo-controls, accomplish the following:

#### Inspection of Rudder Travel Limitation Unit

(a) Within 16 months after the effective date of this AD: Perform a one-time detailed inspection of the rudder travel limitation unit (RTLU) (including installing rigging pins on the bellcrank and the right and left input levers) for proper adjustment, per the Accomplishment Instructions specified in Airbus Service Bulletin A330-27-3084 (for Model A330 series airplanes); or Airbus Service Bulletin A340-27-4088 (for Model A340 series airplanes); both dated March 28, 2001; as applicable. Although the service bulletins reference a reporting requirement, such reporting is not required by this AD.

(1) If it is possible to install rigging pins on both input levers, the RTLU is properly

adjusted and no further action is required by this paragraph.

(2) If it is not possible to install the rigging pins on either input lever, before further flight, adjust the length of the appropriate adjustable rod, per the Accomplishment Instructions specified in the applicable service bulletin.

**Note 2:** For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

#### Measurement of Rudder Servo-Controls Desynchronization and Corrective Action if Necessary

(b) Within 16 months after the effective date of this AD: Measure the desynchronization value (value D) of the rudder servo-controls and, depending on the measurement, before further flight, perform the applicable corrective actions (e.g., replacement and/or adjustment of the spring rod and/or the rudder servo-controls); per the Accomplishment Instructions specified in Airbus Service Bulletin A330-27-3084 (for Model A330 series airplanes); or Airbus Service Bulletin A340-27-4088 (for Model A340 series airplanes); both dated March 28, 2001; as applicable. Operators should note that although these service bulletins request that desynchronized rudder servo-controls with the highest load factors be returned to the manufacturer, that action is not required by this AD.

(c) If any rudder servo-control was replaced per the requirements of paragraph (b) of this AD, do paragraphs (c)(1) and (c)(2) of this AD.

(1) Before further flight, perform either a detailed inspection or a high frequency eddy current (HFEC) inspection for cracks in the attachment fittings of the desynchronized rudder servo-controls, and perform the applicable follow-on and corrective actions (e.g., cold expansion of affected fastener holes, drilling/reaming of affected holes, and rotating probe inspections), per the Accomplishment Instructions specified in Airbus Service Bulletin A330-55-3028 (for Model A330 series airplanes); or Airbus Service Bulletin A340-55-4026 (for Model A340 series airplanes); both excluding Appendix 01; both dated May 28, 2001; as applicable; except where the service bulletin specifies to contact the manufacturer for repair instructions, repair per a method approved by the Manager, International Branch, ANM-116, FAA.

(2) Repeat the inspection required by paragraph (c)(1) of this AD at the following intervals:

(i) If the immediately preceding inspection was conducted using detailed inspection techniques, conduct the next inspection within 300 flight cycles; or

(ii) If the immediately preceding inspection was conducted using HFEC techniques,

conduct the next inspection within 6,000 flight cycles.

#### Concurrent Requirements

(d) Concurrently with the requirements of paragraphs (a) and (b) of this AD, install appropriate rigging placards for the rudder servo-controls, per Airbus Service Bulletin A330-27-3082 (for Model A330 series airplanes); or Airbus Service Bulletin A340-27-4086 (for Model A340 series airplanes); both dated March 28, 2001; as applicable.

#### Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

#### Special Flight Permit

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

#### Incorporation by Reference

(g) The actions shall be done in accordance with Airbus Service Bulletin A330-27-3082, dated March 28, 2001; Airbus Service Bulletin A330-27-3084, dated March 28, 2001; Airbus Service Bulletin A330-55-3028, excluding Appendix 01, dated May 28, 2001; Airbus Service Bulletin A340-27-4086, dated March 28, 2001; Airbus Service Bulletin A340-27-4088, dated March 28, 2001; and Airbus Service Bulletin A340-55-4026, excluding Appendix 01, dated May 28, 2001; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 4:** The subject of this AD is addressed in French airworthiness directives 2001-156(B) and 2001-157(B), both dated May 2, 2001.

#### Effective Date

(h) This amendment becomes effective on October 10, 2003.

Issued in Renton, Washington, on August 27, 2003.

Neil D. Schalekamp,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03-22495 Filed 9-4-03; 8:45 am]

BILLING CODE 4910-13-P

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1512

#### Requirements for Bicycles—Tests and Test Procedures; Correction

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** It has come to the attention of the Consumer Product Safety Commission (CPSC or Commission) recently that the equation defining the criteria for the reflective tire and rim test that appears in the current CPSC bicycle regulations has several typographical errors. Therefore, the Commission is issuing this immediately effective revision to the pertinent portion of the those regulations to correct the errors.

**DATES:** This rule is effective September 5, 2003.

**FOR FURTHER INFORMATION CONTACT:** Vincent Amodeo, Directorate for Engineering Sciences, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-7570; e-mail [vamodeo@cpsc.gov](mailto:vamodeo@cpsc.gov)

#### SUPPLEMENTARY INFORMATION:

##### A. The Correction

The Commission's bicycle regulations issued under authority of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261-1278, appear at 16 CFR part 1512. The current version of the portion of those regulations establishing the criteria for testing reflective tires and rims contains several typographical errors. In particular, in § 1512.18(o)(2)(iv), in the Ratio equation, the symbol "θ" for the entrance angle is missing and the symbol "Φ" for the observation angle is incorrectly shown as a lower case "o". The correct equation reads as follows:

$$A = 4\cos^2\theta/[1+(\Phi/0.225)^{3/2}]$$

The symbols θ and Φ are also omitted in the sentence following the Ratio equation. Accordingly, the Commission is issuing this immediately effective amendment to § 1512.18(o)(2)(iv) to correct these errors.

## B. The Administrative Procedure Act (APA)

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) authorizes an agency to dispense with certain notice procedures for a rule when it finds "good cause" to do so. 5 U.S.C. 553(b)(3)(B). Specifically, under section 553(b)(3)(B), the requirement for notice and an opportunity to comment does not apply when the agency, for good cause, finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." This amendment corrects obvious typographical errors in the current versions of § 1512.18(o)(2)(iv) and does not change the criteria set forth therein. Accordingly, the Commission hereby finds that notice of, and public comment on, this technical correction are unnecessary.

Section 553(d)(3) of the APA authorizes an agency, "for good cause found and published with the rule," to dispense with the otherwise applicable requirement that a rule be published in the **Federal Register** at least 30 days before its effective date. The Commission hereby finds that a 30 day delay in the effective date is unnecessary because this technical amendment merely corrects obvious typographical errors in the current version of § 1512.18(o)(2)(iv).

## C. Other Rulemaking Requirements

Because this technical correction is being issued as a final rule not subject to notice and comment, it is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

The Commission's regulations at 16 CFR 1021.5(c)(1) state that rules or safety standards to provide design or performance requirements for products normally have little or no potential for affecting the human environment. Because this amendment is a technical correction that makes no change to the substantive requirements of the portion of the regulations being amended, the Commission concludes that no environmental assessment or environmental impact statement is required.

As provided for in Executive Order 12988 (February 5, 1996), the CPSC states the preemptive effect of this technical correction amendment as follows. The FHSA provides that, generally, if the Commission issues a banning rule under section 2(q) of the FHSA to protect against a risk of illness or injury associated with a hazardous substance, "no State or political subdivision of a State may establish or continue in effect a requirement

applicable to such substance and designed to protect against the same risk of illness or injury unless such requirement is identical to the requirement established under such regulations." 15 U.S.C. 1261n(b)(1)(B). Upon application to the Commission, a State or local standard may be excepted from this preemptive effect if the State or local standard (1) provides a higher degree of protection from the risk of injury or illness than the FHSA standard and (2) does not unduly burden interstate commerce. In addition, the Federal government, or a State or local government, may establish and continue in effect a non-identical requirement that provides a higher degree of protection than the FHSA requirement for the hazardous substance for the Federal, State or local government's own use. 15 U.S.C. 1261n(b)(2). Thus, this technical correction amendment preempts non-identical state or local requirements designed to protect against the same risk of injury.

■ For the reasons stated in the preamble, the Commission amends part 1512 of Title 16 of the Code of Federal Regulations to read as follows:

### PART 1512—REQUIREMENTS FOR BICYCLES

■ 1. The authority for Part 1512 continues to read as follows:

**Authority:** Secs. 2(f)(1)(D), (q)(1)(A), (s), 3(e)(1), 74 Stat. 372, 374, 375, as amended, 80 Stat. 1304–05, 83 Stat. 187–89 (15 U.S.C. 1261, 1262); Pub. L. 107–319, 116 Stat. 2776.

■ 2. In §1512.18, revise the heading and first sentence of paragraph (o)(2)(iv) to read as follows:

#### § 1512.18 Tests and test procedures.

\* \* \* \* \*

(o) \* \* \*

(2) \* \* \*

(iv) *Criteria.* The ratio A as defined in § 1512.18(o)(2)(iii) shall not be less than:

$$A = 4\text{Cos}^2\theta/[1+(\Phi/0.225)^{3/2}]$$

where A is ratio in meters,  $\theta$  is the entrance angle in degrees, and  $\Phi$  is the observation angle in degrees. \* \* \*

\* \* \* \* \*

Dated: August 28, 2003.

**Todd A. Stevenson, Secretary,**

*Consumer Product Safety Commission.*

[FR Doc. 03–22587 Filed 9–4–03; 8:45 am]

**BILLING CODE 6355–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 70

[NE 190–1190a; FRL–7552–9]

### Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Nebraska

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is announcing approval of revisions to the Nebraska State Implementation Plan (SIP) and Operating Permits Program. On September 5, 2002, the state updated its air program construction and operating permitting rules, its definitions rule, and emission inventory reporting rule. Approval of these revised rules will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's revised air program rules.

**DATES:** This direct final rule will be effective November 4, 2003, unless EPA receives adverse comments by October 6, 2003. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be submitted to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Electronic comments should be sent either to Wayne Kaiser at [kaiser.wayne@epa.gov](mailto:kaiser.wayne@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in "What action is EPA taking" in the **SUPPLEMENTARY INFORMATION** section.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551–7603 or by E-mail at [kaiser.wayne@epa.gov](mailto:kaiser.wayne@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional

information by addressing the following questions:

- What is a SIP?
- What is the Federal approval process for a SIP?
- What does Federal approval of a state regulation mean to me?
- What is the part 70 Operating Permits Program?
- What is the Federal approval process for an operating permits program?
- What does Federal approval of a state operating permits program mean to me?
- What is being addressed in this document?
- Have the requirements for approval of a SIP revision and part 70 program revision been met?
- What action is EPA taking?

#### **What Is a SIP?**

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by us. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

#### **What Is the Federal Approval Process for a SIP?**

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by us under

section 110 of the CAA are incorporated into the Federally-approved SIP.

Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled "Approval and Promulgations of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date.

#### **What Does Federal Approval of a State Regulation Mean to Me?**

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in the CAA.

#### **What Is the Part 70 Operating Permits Program?**

The CAA Amendments of 1990 require all states to develop operating permits programs that meet certain Federal criteria. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the part 70 operating permits program is to improve enforcement by issuing each source a single permit that consolidates all of the applicable CAA requirements into a Federally-enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in our implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen dioxide, or PM<sub>10</sub>; those that emit 10 tons per year of any single hazardous air pollutant (HAP) (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of HAPs.

#### **What Is the Federal Approval Process for an Operating Permits Program?**

In order for state regulations to be incorporated into the Federally-enforceable Title V operating permits program, states must formally adopt regulations consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the approved operating permits program. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 502 of the CAA are incorporated into the Federally-approved operating permits program. Records of such actions are maintained in the CFR at Title 40, part 70, appendix A, entitled "Approval Status of State and Local Operating Permits Programs."

#### **What Does Federal Approval of a State Operating Permits Program Mean to Me?**

Enforcement of the state regulation before and after it is incorporated into the Federally-approved operating permits program is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

#### **What Is Being Addressed in This Document?**

The state of Nebraska has requested that we approve as a revision to the Nebraska SIP, part 70 Operating Permits Program, and section 112(l) air toxics program rule revisions adopted by the Nebraska Environmental Quality Council on September 5, 2002. In its submission, the state also requested that we not take action, at this time, on certain revisions, as discussed below, relating to the state's "permit by rule." The revisions to Title 129—Nebraska Air Quality Regulations which we are approving in today's rule are:

Chapter 1—Definitions, was revised to add new definitions for: Air Quality Control Region, AP-42, Insignificant activities, Low emitter, Method 9, Method 22, Mobile source, Speciation,

Synthetic minor, and UTM coordinates. Additionally, the existing definition for Interstate air pollution control agency was revised. These changes will help clarify and define other related requirements of the state's rules.

Chapter 5—Operating Permits—When Required. Clarifying terms were added to the terms Class I and Class II permits. Class I also means major source, and Class II means minor source.

Chapter 6—Emissions Reporting: When Required. The emissions reporting requirements were clarified to distinguish between non-hazardous and hazardous pollutants, and a reference to Appendix III was added. This appendix, otherwise called the Insignificant Activities List, specifies the hazardous air pollutants and quantities required to be reported on the emission inventory form.

Chapter 30—Open Fires, Prohibited; Exceptions. This revision broadens the range of groups that may be issued open burning permits for the purpose of plant and wildlife parks management when approved by the Director.

Appendix III—Reporting Levels of Hazardous Air Pollutants for Emissions Inventory. This table (the Insignificant Activities List) has been used by the Department for some time, but now has been codified into Title 129 of the state rules.

The state has also adopted a permit-by-rule provision in chapter 42 of Title 129 of the state rules. Because the state is in the process of revising chapter 42, and we are working with the state to make appropriate revisions, Nebraska has requested that we not consider chapter 42 as part of its official submission at this time. In keeping with that request, we are also not acting on portions of the submission which reference chapter 42 identified below. This will avoid confusion by ensuring that the Federally-approved requirements do not cross-reference other requirements which are not Federally approved at this time. We will be acting on these provisions when the state submits its revised chapter 42 for approval.

The specific portions of the September 5, 2002, revisions which are not approved are as follows:

- The revision to chapter 5, rule 001.02;
- The revision to chapter 9, rule 011; and
- The revision to chapter 17, rule 001.

These provisions provide exemptions from certain construction and operating permit program requirements for sources operating under chapter 42. The result of our action is that these exemptions will not be recognized

under the Federally-approved permitting programs until such time as we approve the state's chapter 42 permit-by-rule program.

#### **Have the Requirements for Approval of a SIP Revision and Part 70 Program Revision Been Met?**

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revisions approved today meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations. Finally, the approved revisions meet the substantive requirements of Title V of the 1990 CAA Amendments and 40 CFR part 70.

#### **What Action Is EPA Taking?**

We are approving as an amendment to the Nebraska SIP revisions to Title 129, chapters 1, 5, 6, and 30 as described in this rule. We are also approving as a program revision to the state's part 70 Operating Permits Program revisions to Title 129, chapters 1, 5, 6, and appendix III. Finally, we are approving pursuant to section 112(l) revisions to chapter 5. These revisions to the state rules became effective November 20, 2002.

EPA is processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number, NE 190-1190a, 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.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. 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. 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.

a. *Electronic mail.* Comments may be sent by e-mail to Wayne Kaiser at [kaiser.wayne@epa.gov](mailto:kaiser.wayne@epa.gov). Please include identification number NE 190-1190a in the subject line. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through Regulations.gov, 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.

b. *Regulations.gov.* Your use of Regulations.gov is an alternative method of submitting electronic comments to EPA. Go directly to <http://www.regulations.gov>, click on "To Search for Regulations," then select Environmental Protection Agency and use the "go" button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. 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.

2. *By Mail.* Written comments should be sent to the name and address listed in the **ADDRESSES** section of this document.

#### **Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility

Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

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

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority

to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 *note*) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 4, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not

be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

*40 CFR Part 70*

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: August 22, 2003.

**Cecilia Tapia,**

*Acting Regional Administrator, Region 7.*

■ 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 CC—Nebraska**

■ 2. In § 52.1420 the table in paragraph (c) is amended by:

- a. Adding a heading for Title 129.
- b. Revising the entries for 129-1, 129-5, 129-6, and 129-30.

The addition and revisions read as follows:

**§ 52.1420 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED NEBRASKA REGULATIONS**

Nebraska citation	Title	State effective date	EPA approval date	Comments
<b>STATE OF NEBRASKA</b> <b>Department of Environmental Quality</b>				
<b>Title 129—Nebraska Air Quality Regulations</b>				
129-1 .....	Definitions .....	11/20/02	9/5/03 and FR page citation.	
*	*	*	*	*
129-5 .....	Operating Permit .....	11/20/02	9/5/03 and FR page citation ..	Section 001.02 is not SIP approved.
129-6 .....	Emissions Reporting .....	11/20/02	9/5/03 and FR page citation.	

EPA-APPROVED NEBRASKA REGULATIONS—Continued

Nebraska citation	Title	State effective date	EPA approval date	Comments
129-30	Open Fires, Prohibited; Exceptions.	11/20/02	9/5/03 and FR page citation.	

\* \* \* \* \*

**PART 70—[AMENDED]**

■ 1. The authority citation for part 70 continues to read as follows:

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

**Appendix A—[Amended]**

■ 2. Appendix A to part 70 is amended by adding paragraph (g) under Nebraska; City of Omaha; Lincoln-Lancaster County Health Department to read as follows:

**Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs**

\* \* \* \* \*

Nebraska; City of Omaha; Lincoln-Lancaster County Health Department.

(g) The Nebraska Department of Environmental Quality approved revisions to NDEQ Title 129, chapters 1, 5, 6, and appendix III (which codifies its prior Federally approved Insignificant Activities List) on September 5, 2002, which became effective on November 20, 2002. These revisions were submitted on May 1, 2003. We are approving these program revisions effective November 4, 2003.

[FR Doc. 03-22539 Filed 9-4-03; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-2003-0284; FRL-7323-7]

**Propylene Carbonate; Exemption from the Requirement of a Tolerance**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of propylene carbonate when used as an inert ingredient in pesticide formulations applied pre- and post-harvest to

agricultural commodities. Huntsman Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996, requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of propylene carbonate.

**DATES:** This regulation is effective September 5, 2003. Objections and requests for hearings, identified by docket ID number OPP-2003-0284, must be received on or before November 4, 2003.

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

**FOR FURTHER INFORMATION CONTACT:** Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-6304; e-mail address: [boyle.kathryn@epa.gov](mailto:boyle.kathryn@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 production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining

whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2003-0284. 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](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development.

An electronic version of the public docket is available through EPA’s electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still

access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

## II. Background and Statutory Findings

In the **Federal Register** of December 30, 1998 (63 FR 71920) (FRL-6050-1), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act (FQPA) (Public Law 104-170), announcing the filing of a pesticide tolerance petition (PP 8E4992) by Huntsman Corporation, Houston, Texas. This notice included a summary of the petition prepared by the petitioner Huntsman. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.1001(c) be amended by establishing an exemption from the requirement of a tolerance for residues of propylene carbonate, also known as 1,3-Dioxolan-2-one, 4-methyl- (CAS Reg. No. 108-32-7).

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) 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) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

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

## III. Human Health Assessment

### A. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by propylene carbonate are discussed in this unit. The Agency has reviewed 12 toxicity studies using propylene carbonate as the test substance. The results of those reviews are listed in the following Table 1:

TABLE 1.—TOXICITY STUDIES USING PROPYLENE CARBONATE

Study Type	Results
Acute oral (rat)	LD <sub>50</sub> > 5,000 mg/kg (Toxicity Category IV)
Acute dermal (rabbit)	LD <sub>50</sub> > 2,000 mg/kg (Toxicity Category III)
Primary eye irritation (rabbit)	Not a significant ocular irritant (Toxicity Category III)
Primary dermal irritation	(Toxicity Category IV)
Developmental (rat)	Maternal NOAEL = 1,000 mg/kg/day Maternal LOAEL = 3,000 mg/kg/day based on mortality, clinical signs and decreased food consumption Developmental NOAEL = 3,000 mg/kg/day Developmental LOAEL = 5,000 mg/kg/day based on increase in skeletal variations
113-week feeding (rat)	NOAEL = equal to or greater than 5,000 mg/kg/day (HTD - highest dose tested) LOAEL = would be greater than 5,000 mg/kg/day

TABLE 1.—TOXICITY STUDIES USING PROPYLENE CARBONATE—Continued

Study Type	Results
113-week inhalation (rat) with neurotox	NOAEL = 0.5 mg/L/day LOAEL = 1.0 mg/L/day based on clinical signs in both sexes No evidence of neurotoxic potential
Cancer dermal (skin-painting) (mouse)	Negative, but dosing was considered inadequate
9-day inhalation (rat)	NOAEL = not determined - effects seen at lowest dose tested LOAEL = 1 mg/L/day based on clinical signs of toxicity, ocular irritation
Mouse micronucleus	Not mutagenic
UDS	Negative
Gene mutation (S. typhimurium)	Negative

### B. Structure Activity Relationship Assessment

For propylene carbonate, toxicity was assessed, in part, by a process called structure-activity-relationship (SAR). In this process, the chemical's structural similarity to other chemicals (for which data are available) is used to determine toxicity. For human health, this process, can be used to assess absorption and metabolism, mutagenicity, carcinogenicity, developmental and reproductive effects, neurotoxicity, systemic effects, immunotoxicity, and sensitization and irritation. This is a qualitative assessment using terms such as good, not likely, poor, moderate, or high.

For propylene carbonate the SAR assessment determined that the chemical was not structurally related to any known carcinogens. The following human exposures were examined as part of the analysis: Inhalation, dermal, exposures to the eyes, and drinking water. Absorption of propylene carbonate is expected to be good (well-absorbed) via all routes (oral, dermal and inhalation) based on physical/chemical properties. There are concerns for effects on the liver and kidneys, solvent-type neurotoxicity and developmental toxicity at high dose levels, and irritation to mucous

membranes. The overall SAR rating for human health is low/moderate concern.

The SAR did note a concern for solvent neurotoxicity, i.e., neurotoxic effects that can occur due to "high" and/or "prolonged" dermal and inhalation exposures to organic solvents. It should be noted that the inclusion of the phrase "solvent-type neurotoxicity" in the SAR assessment does not necessarily indicate chemical-specific concerns. By including this statement those performing the SAR assessment are acknowledging that the chemical is a member of a class of chemicals that can exhibit solvent neurotoxicity.

### C. Conclusions

The Agency used two sources of information to determine the toxicity of propylene carbonate: The 12 toxicity studies submitted by the petitioner and reviewed by the Agency, and a SAR assessment. The two sources of data support each other. However, results of the SAR Assessment are a type of predicted data based in part on surrogate data. There is actual data generated using propylene carbonate as the test substance, and actual data has precedence over predicted data.

The Agency reviewed a propylene carbonate developmental toxicity study in the rat with a maternal no observed adverse effect level (NOEL) of 1,000 milligrams/kilogram/day (mg/kg/day) and a maternal lowest observed adverse effect level (LOAEL) of 3,000 mg/kg/day based on mortality, clinical signs and decreased food consumption. In the same study, the developmental NOEL is 3,000 mg/kg/day and the developmental LOAEL is 5,000 mg/kg/day based on an increase in skeletal variations. In a propylene carbonate 13-week rat feeding study the NOEL is equal to or greater than 5,000 mg/kg/day, the highest dose tested. A LOAEL was not identified in that study, but it would be even greater than 5,000 mg/kg/day. It is noted that each of these NOAELs is equal to or greater than 1,000 mg/kg/day. As a matter of practice, for both the developmental and the 13-week toxicity study, the Agency does not encourage testing above 1,000 mg/kg/day. The lack of effects at 1,000 mg/kg/day is considered adequate to define the toxicity, without pushing the dose levels higher until effects are apparent.

The SAR assessment judged propylene carbonate to be of low/moderate concern. It did not identify any carcinogenic concerns. One identified concern was for possible irritation to mucous membranes. This concern would involve the dermal and

inhalation exposure routes and would be addressed through the use of protective equipment such as gloves and respirators, not through establishment of tolerance exemptions.

A concern predicted by the SAR, based on its structural chemistry and chemical class, is for possible solvent neurotoxicity from exposure to propylene carbonate. As previously explained, this statement acknowledges that propylene carbonate is a member of a class of chemicals that can exhibit solvent neurotoxicity. However, the propylene carbonate data base includes a 13-week inhalation toxicity study in the rat with a neurotoxicity evaluation. Based on its review and evaluation of this inhalation toxicity study, the Agency determined that there was no evidence of neurotoxicity potential.

The SAR also indicated a concern for developmental toxicity at high dose levels. However, the Agency reviewed a propylene carbonate developmental toxicity study in the rat with a maternal NOEL of 1,000 mg/kg/day and a maternal LOAEL of 3,000 mg/kg/day based on mortality, clinical signs and decreased food consumption. In the same study, the developmental NOEL is 3,000 mg/kg/day and the developmental LOAEL is 5,000 mg/kg/day based on increase in skeletal variations.

Considering the NOAELs of greater than 1,000 mg/kg/day for the propylene carbonate toxicity studies and the overall judgement of low/moderate concern from the SAR assessment, propylene carbonate is of low toxicological concern.

### IV. Aggregate Exposures

In examining aggregate exposure, FFDC section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

Over 1 million pounds of propylene carbonate are either produced or imported per year. Some of this propylene carbonate production is used as a chemical intermediate, in the production of other chemicals. Propylene carbonate has been approved by the Food and Drug Administration for use as an indirect food additive as a component of adhesives. According to 21 CFR 175.105, propylene carbonate can be a component of an adhesive used as part of "articles intended for use in packaging, transporting, or holding

food." Propylene carbonate is also used in cosmetics. Information on the internet (Huntsman website) indicates that propylene carbonate is used in tub and tile cleaners, hard surface and floor cleaners that could be used in and around the home.

The Agency has used various screening-level models to estimate some of the existing levels of exposure, and those that could occur as a result of establishing this tolerance exemption. To assure protectiveness, these estimates are deliberately intended to over-estimate exposure as shown in the following Table 2:

TABLE 2.—SCREENING-LEVELS OF EXPOSURE USING PROPYLENE CARBONATE

Type of Exposure	Exposure Level
Dietary - Food (as a result of application to crops)	Acute exposure: Less than 1 mg/kg/day at 95th percentile Chronic exposure: Less than 1 mg/kg/day
Dietary - Drinking Water	Acute exposure: Much less than 1 mg/kg/day Chronic exposure: Much less than 1 mg/kg/day
Residential (as a result of using a cleaning product)	Approximately 6 mg/kg/day
Residential (as a result of using a laundry detergent)	Approximately 1 mg/kg/day
Residential (as a result of application to a lawn)	Less than 1 mg/kg/day

With one exception all of the screening-level exposure estimates are in the range of or less than 1 mg/kg/day. The existing studies for propylene carbonate yielded NOAELs that were equal to or greater than 1,000 mg/kg/day. The screening-level exposure estimates are orders of magnitude lower than these NOAELs. Even considering the reported uses, the use of propylene carbonate as an inert ingredient should result in human exposure far below any dose level that could possibly produce an adverse effect.

### V. Cumulative Effects from Substances with a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of the FFDC requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency

consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

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

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

Based on the available data, the SAR assessment indicating low/moderate concern and the data submitted by the petitioner, Huntsman Corporation, which indicate that the chemical is of low toxicological concern, EPA concludes that propylene carbonate does not pose a dietary risk under reasonably foreseeable circumstances. Accordingly, EPA finds that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to propylene carbonate. Due to the expected low oral toxicity, a safety factor analysis has not been used to assess the risk. For the same reasons and especially considering the developmental toxicity NOAEL, the additional tenfold safety factor for the protection of infants and children is unnecessary.

Based on the information in this preamble, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to residues of 1,3-Dioxolan-2-one, 4-methyl- (propylene carbonate). Accordingly, EPA finds that exempting 1,3-Dioxolan-2-one, 4-methyl- (propylene carbonate) (CAS Reg.

No. 108-32-7) from the requirement of a tolerance will be safe.

#### VII. Other Considerations

##### A. Endocrine Disruptors

FQPA requires EPA to develop a screening program to determine whether certain substances, including all pesticide chemicals (both inert and active ingredients), "may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect. . ." EPA has been working with interested stakeholders to develop a screening and testing program as well as a priority setting scheme. As the Agency proceeds with implementation of this program, further testing of products containing propylene carbonate for endocrine effects may be required.

##### B. Analytical Method(s)

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

##### C. Existing Tolerances

There are no existing tolerances or tolerance exemptions for propylene carbonate.

##### D. International Tolerances

The Agency is not aware of any country requiring a tolerance for propylene carbonate nor have any CODEX Maximum Residue Levels been established for any food crops at this time.

##### E. List 4A (Minimal Risk) Classification

The Agency established 40 CFR 180.950 (see the rationale in the proposed rule published January 15, 2002 (67 FR 1925) (FRL-6807-8)) to collect the tolerance exemptions for those substances classified as List 4A, i.e., minimal risk substances. As part of evaluating an inert ingredient and establishing the tolerance exemption, the Agency determines the chemical's list classification.

The available data and the SAR assessment indicated propylene carbonate is of lower toxicity. Given the NOAELs of greater than 1,000 mg/kg/day and the acute toxicity studies that were category III and IV, it has been determined that propylene carbonate, also known as 1,3-Dioxolan-2-one, 4-methyl- (CAS Reg. No. 108-32-7) is to be classified as a List 4A inert ingredient. Thus, the tolerance exemption will be established in 40 CFR 180.950 instead of 40 CFR 180.1001(c) as requested by the petitioner, Huntsman.

#### VIII. Conclusions

Based on the information in the record, summarized in this preamble, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to residues of propylene carbonate (CAS Reg. No. 108-32-7). Accordingly, EPA finds that exempting propylene carbonate from the requirement of a tolerance will be safe.

#### IX. 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 of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. 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-2003-0284 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 November 4, 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](mailto: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 IX.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP-2003-0284, 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](mailto: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).

#### **X. Statutory and Executive Order Reviews**

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency

action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on

one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

**XI. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides

(e) \* \* \*

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: August 22, 2003.

**Peter Caulkins,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

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

**PART 180—[AMENDED]**

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

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

■ 2. Section 180.950 is amended by adding alphabetically the following ingredient to the table in paragraph (e) to read as follows.

**§ 180.950 Tolerance exemptions for minimal risk active and inert ingredients.**

\* \* \* \* \*

Chemical	CAS No.
* * * * *	
1,3-Dioxolan-2-one, 4-methyl-(propylene carbonate) .....	108-32-7
* * * * *	

[FR Doc. 03-22546 Filed 9-4-03; 8:45am]  
**BILLING CODE 6560-50-S**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 62**

**RIN 1660-AA29**

**National Flood Insurance Program (NFIP); Assistance to Private Sector Property Insurers; Extension of Term of Arrangement**

**AGENCY:** Federal Emergency Management Agency (FEMA).  
 Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Interim final rule.

**SUMMARY:** FEMA is changing the current Financial Assistance/Subsidy Arrangement (the Arrangement) to extend its term of October 1, 2002, through September 30, 2003, to a term of October 1, 2002, through December 31, 2003. The Arrangement defines the duties and responsibilities of insurers that sell and service insurance under the Write Your Own (WYO) program. It also

identifies the responsibilities of the Government to provide financial and technical assistance to these insurers.

**DATES:** Effective October 1, 2003. Comments on this interim final rule, should be received on or before October 6, 2003.

**ADDRESSES:** Please send your comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Room 840, Washington, DC 20472, (facsimile) 202-646-4536, or (e-mail) [rules@fema.gov](mailto:rules@fema.gov).

**FOR FURTHER INFORMATION CONTACT:** Edward L. Connor, FEMA, 500 C Street, SW., Washington, DC 20472, 202-646-3429 (Phone), 202-646-3445 (facsimile), or [Edward.Connor@dhs.gov](mailto:Edward.Connor@dhs.gov) (e-mail).

**SUPPLEMENTARY INFORMATION:** On August 9, 2002, FEMA published in the **Federal Register**, 67 FR 51768, a final rule to revise the effective date of the Arrangement to agree with the new Arrangement year beginning October 1, 2002, and ending September 30, 2003.

FEMA had planned to make significant changes in the Arrangement regarding litigation issues effective October 1, 2003. However, as the proposed rule for these changes has not yet been published in the **Federal Register**, it is not feasible to complete the rulemaking for an effective date of

October 1, 2003. WYO insurers need to receive an offer to enter into the Arrangement each year well in advance of the beginning of the Arrangement year. By extending the current Arrangement for an additional 3 months, the revised Arrangement with the litigation changes can be effective January 1, 2004, instead of postponing these changes to October 1, 2004. WYO insurers can always elect to cease participation in the WYO program at any time, so any insurer not desiring to participate for the additional 3 months of this extension may cease participation as of October 1, 2003.

Under this extension of the current Arrangement, the expense allowance provided for in Article III, Section B of APPENDIX A TO PART 62—FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, FINANCIAL ASSISTANCE/SUBSIDY ARRANGEMENT will remain the same for the additional 3 months as it is now, except there will be no additional expense allowance of up to two percentage points for meeting marketing goals for the three-month extension. This additional expense allowance will be based on the period October 1, 2002, through September 30, 2003.

### National Environmental Policy Act

This interim final rule falls within the exclusion category 44 CFR part 10.8(d)(2)(ii), which addresses the preparation, revision, and adoption of regulations, directives, and other guidance documents related to actions that qualify for categorical exclusions. Qualifying for this exclusion and because no other extraordinary circumstances have been identified, this interim final rule will not require the preparation of either an environmental assessment or environmental impact statement as defined by the National Environmental Policy Act.

### Executive Order 12866, Regulatory Planning and Review

We have prepared and reviewed this rule under the provisions of E.O. 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, October 4, 1993, a significant regulatory action is subject to an Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

For the reasons that follow we have concluded that this interim final rule is neither an economically significant nor a significant regulatory action under the Executive Order. The interim final rule will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, the insurance sector, competition, or other sectors of the economy. It will create no serious inconsistency or otherwise interfere with an action taken or planned by another agency. It will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Nor does it raise novel legal or policy issues arising out

of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

OMB has not reviewed this rule under the principles of Executive Order 12866.

### Paperwork Reduction Act

This interim final rule does not contain a collection of information and it is therefore not subject to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

### Executive Order 13132, Federalism

Executive Order 13132, Federalism, dated August 4, 1999, sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

We have reviewed this rule under E.O. 13132 and have concluded that the rule does not have federalism implications as defined by the Executive Order. We have determined that the rule does not significantly affect the rights, roles, and responsibilities of States, and involves no preemption of State law nor does it limit State policymaking discretion.

### Executive Order 12778, Civil Justice Reform

This interim final rule meets the applicable standards of section 2(b)(2) of E.O. 12778.

### Administrative Procedure Act Statement

In general, FEMA publishes a rule for public comment before issuing a final rule, under the Administrative Procedure Act, 5 U.S.C. 533 and 44 CFR 1.12. The Administrative Procedure Act, however, provides an exception from that general rule where the agency for good cause finds the procedures for comment and response contrary to the public interest. The public benefit of this rule is the continuation of the WYO arrangement without interruption. Therefore, we believe it is contrary to the public interest to delay the benefits of this rule. In accordance with the Administrative Procedure Act, 5 U.S.C. 553(d)(3), we find that there is good cause for the interim final rule to be

published without prior public comment and without a full 30-day delayed effective date.

### List of Subjects in 44 CFR Part 62

Flood insurance.

■ Accordingly, we amend 44 CFR Part 62 as follows:

### PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

■ 1. The authority citation for part 62 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

■ 2. In Appendix A to part 62, revise the first sentence of Article V, Section A to read as follows:

Appendix A to part 62—Federal Emergency Management Agency, Federal Insurance Administration, Financial Assistance/Subsidy Arrangement.

### Article V \* \* \*

A. This Arrangement shall be effective for the period October 1, 2002 through December 31, 2003. \* \* \*

\* \* \* \* \*  
Dated: August 29, 2003.

**Michael D. Brown,**

*Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.*

[FR Doc. 03-22659 Filed 9-4-03; 8:45 am]

BILLING CODE 6718-03-P

### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

#### 45 CFR Part 1105

RIN 3136-AA22

#### Repeal of Superseded and Redundant Regulations and Addition of Residual Cross-Reference Provision

**AGENCIES:** National Endowment for the Arts (NEA) and National Endowment for the Humanities (NEH).

**ACTION:** Interim rule, with request for comments.

**SUMMARY:** The NEA and the NEH, acting together as the National Foundation on the Arts and the Humanities (the "Foundation"), are amending regulations to repeal the Foundation's superseded and redundant old standards of conduct regulations and adding a residual cross-reference provision.

**DATES:** This interim rule takes effect on September 5, 2003. Comments are

invited and must be received by October 6, 2003.

**ADDRESSES:** Send comments to Karen Elias, Deputy General Counsel, National Endowment for the Arts, Room 518, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 or Michael McDonald, Deputy General Counsel, National Endowment for the Humanities, Room 529, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

**FOR FURTHER INFORMATION CONTACT:** Karen Elias, Deputy General Counsel, National Endowment for the Arts, Room 518, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. Telephone (202) 682-5418. Individuals who use a telecommunications device for the deaf (TDD) may contact the NEA's TDD terminal at (202) 682-5496 Voice/T.T. Michael McDonald, Deputy General Counsel, National Endowment for the Humanities, Room 529, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. Telephone (202) 606-8322; TDD (202) 606-8282 or (866) 372-2930.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On August 7, 1992, the U.S. Office of Government Ethics (OGE) published in the **Federal Register** new Standards of Conduct for Employees of the Executive Branch ("Standards"). The Standards, as corrected and amended, are codified at 5 CFR part 2635 and generally became effective February 3, 1993. Those regulations established uniform standards of ethical conduct that apply to all executive branch personnel.

The Foundation's old standards of conduct at 45 CFR part 1105 were applicable to employees at both the NEA and the NEH until they were superseded by the executive branchwide Standards at 5 CFR part 2635, and OGE's revised executive branch financial disclosure regulations at 5 CFR part 2634, which became effective in 1992. The Foundation's superseded old conduct regulations and certain redundant provisions thereof are being removed and 45 CFR part 1105 is being revised to contain a cross-reference section to the NEA's new supplemental standards regulations and the NEH's new supplemental standards regulations, which are both being published in the **Federal Register** today in separate rulemaking documents, as well as to 5 CFR parts 2634 and 2635, to 5 CFR part 2640, OGE's financial interest regulations, and to the employee responsibilities and conduct regulations at 5 CFR part 735.

**II. Repeal of the Foundation's Superseded and Redundant Employee Responsibilities and Conduct Regulations and Addition of a Residual Cross-Reference Provision**

The interim rule removes those provisions in the regulations at 45 CFR part 1105 governing NEA and NEH employees' responsibilities and conduct that were superseded by the OGE Standards and by OGE's executive branch financial disclosure regulations at 5 CFR part 2634. While the Standards became effective on February 3, 1993, by operation of the prior note following 5 CFR 2635.803 of the regulations and prior appendix A to 5 CFR part 2635 (see January 1, 1997 edition of 5 CFR), the Foundation's regulation concerning prior approval of outside employment remained in effect until February 3, 1994, plus one year longer with respect to the NEH. See 59 FR 4779-4780 (February 2, 1994).

The Foundation is also removing from 45 CFR part 1105 various sections that are unnecessary or redundant, in light of other regulations. Additionally, the Foundation has determined that the NEA and the NEH each are best suited to administer their own respective conduct-related regulations and to develop with OGE's concurrence any supplemental conduct regulations at their respective agencies.

A residual provision is being added to 45 CFR part 1105 to cross-reference the executive branchwide Standards at 5 CFR part 2635, the NEA's new supplemental standards of ethical conduct, the NEH's new supplemental standards of conduct, the executive branchwide regulations on financial disclosure and financial interests at 5 CFR parts 2634 and 2640, and the branchwide employee responsibilities and conduct regulations at 5 CFR part 735.

**III. Matters of Regulatory Procedure**

*Waiver of Proposed Rulemaking*

As Deputy General Counsel of the NEA and the Deputy General Counsel of NEH, acting together as the Foundation, we have found good cause pursuant to 5 U.S.C. 553(b) and (d)(3) for waiving, as necessary and contrary to public interest, the general notice of proposed rulemaking, the opportunity for advance public comment, and the 30-day delay in effectiveness as to this interim rule. The reason for this determination is that this rulemaking is related to the Foundation's, the NEA's and the NEH's organization, procedure and practice. Nonetheless, this is an interim rulemaking, with provision for a 30-day public comment period. The NEA and

the NEH, acting together as the Foundation, will review all comments received during the comment period and will consider any modifications that appear appropriate in adopting this rule as final.

**Regulatory Flexibility Act**

As Deputy General Counsel of the NEA and as the Deputy General Counsel of the NEH, acting together as the Foundation, we have determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects NEA and NEH employees.

**Paperwork Reduction Act**

As Deputy General Counsel of the NEA and as the Deputy General Counsel of the NEH, acting together as the Foundation, we have determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because these regulations do not contain any information collection requirements that require approval by the Office of Management and Budget.

**Unfunded Mandates Reform Act**

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, or by the private sector, of \$100 million or more (as adjusted for inflation) in any one year.

**List of Subjects in 45 CFR Part 1105**

Conflict of interests, Government employees.

Dated: August 13, 2003.

**Karen Elias,**

*Deputy General Counsel, National Endowment for the Arts.*

Dated: August 13, 2003.

**Michael McDonald,**

*Deputy General Counsel, National Endowment for the Humanities.*

■ For the reasons set forth in the preamble, the National Foundation on the Arts and the Humanities, the National Endowment for the Arts and the National Endowment for the Humanities are revising 45 CFR part 1105 to read as follows:

**PART 1105—STANDARDS OF CONDUCT FOR EMPLOYEES**

**Authority:** 5 U.S.C. 7301.

**§ 1105.1 Cross-reference to employee ethical conduct standards and financial disclosure and financial interests regulations.**

■ Employees of the National Endowment for the Arts and the National Endowment for the Humanities are subject to the executive branchwide standards of ethical conduct at 5 CFR part 2635; the executive branch employees responsibilities and conduct regulations at 5 CFR part 735; the executive branch financial disclosure regulations at 5 CFR part 2634, and the executive branch financial interests regulations at 5 CFR part 2640. Employees of the National Endowment for the Arts are also subject to that Agency's regulations at 5 CFR part 6501, which supplement the executive branchwide standards of conduct at 5 CFR part 2635. Employees of the National Endowment for the Humanities are also subject to that Agency's regulations at 5 CFR part 6601, which supplement the executive branchwide standards of conduct at 5 CFR part 2635. [FR Doc. 03-22655 Filed 9-4-03; 8:45 am]

BILLING CODE 7536-01-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 030828215-3215-01; I.D. 082103A]

RIN 0648-AR47

#### 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:** Final emergency rule.

**SUMMARY:** NMFS announces changes to the closed areas affecting the limited entry fixed gear fleet, the open access non-trawl gear fleet and the recreational fishery in southern California. For the limited entry fixed gear and open access non-trawl gear fleets, south of 34°27' N. lat. to the U.S./Mexico border, the eastern, inshore boundary of the non-trawl rockfish conservation area (non-trawl RCA), an area closed to fishing by those fisheries, will be a boundary line approximating the 30-fm (55-m) depth contour, except in the Cowcod Conservation Areas (CCA) where the inshore boundary will remain at 20-fm

(37-m) [Note: The CCA is a distinct closed area separate from the non-trawl RCA]. The western, seaward boundary of the non-trawl RCA will remain at a line approximating 150-fm (274-m). For the recreational fishery, south of 34°27' N. lat. to the U.S./Mexico border, the seaward boundary of the open area will be marked by a boundary line approximating the 30-fm (55 m) depth contour, except in the CCA where the boundary will remain at 20-fm (37-m). [Note: The CCA is a distinct closed area separate from the non-trawl RCA.] These actions, which are authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), will allow fishermen access to more abundant groundfish stocks while protecting overfished and depleted stocks. NMFS also announces several corrections to the existing RCA boundaries.

**DATES:** Changes to management measures are effective 0001 hours (local time) September 2, 2003, until the 2004 annual specifications and management measures are effective, unless modified, superseded, or rescinded through a publication in the **Federal Register**. Comments on this rule will be accepted through October 2, 2003.

**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. Information relevant to this emergency rule, which includes an Environmental Assessment/Regulatory Impact Review (EA/RIR), is available for public review during business hours at the offices of the NMFS Northwest Regional Administrator.

**FOR FURTHER INFORMATION CONTACT:** Jamie Goen or Carrie Nordeen (Northwest Region, NMFS), phone: 206-526-6140; fax: 206-526-6736; and e-mail: [jamie.goen@noaa.gov](mailto:jamie.goen@noaa.gov) or [carrie.nordeen@noaa.gov](mailto:carrie.nordeen@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/lstufsh/gdfsh01.htm> and at the Pacific Fishery Management Council's website at: <http://www.pcouncil.org>.

## Background

The Pacific Coast Groundfish Fishery Management Plan (Groundfish FMP) and its implementing regulations at 50 CFR part 660, subpart G, regulate fishing for over 80 species of groundfish off the coasts of Washington, Oregon, and California. Annual groundfish specifications and management measures are initially developed by the Pacific Fishery Management Council (Pacific Council), and are implemented by NMFS. The groundfish specifications include optimum yields (OYs) for groundfish species and species groups. These OYs are the annual harvest targets. Management measures are implemented at the start of the season, and adjusted inseason, to allow the fishery to achieve, but not exceed, the OYs for groundfish. The 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), at 68 FR 35575 (June 16, 2003), at 68 FR 40187 (July 7, 2003) and at 68 FR 43473 (July 23, 2003).

At their June 16–20, 2003 meeting in Foster City, CA, the Pacific Council, in consultation with Pacific Coast Treaty Tribes and the States of Washington, Oregon, and California, recommended changes to current groundfish management measures. Most changes were implemented on July 1, 2003 (68 FR 40187, July 7, 2003), but this change was delayed because of the need for additional analysis prior to implementation. The recommended change being implemented in this document is to move the conservation area boundary line affecting the commercial non-trawl fisheries (limited entry fixed gear and open access non-trawl) and the recreational fishery from 20-fm (37-m) to 30-fm (55-m) south of 34°27' N. lat. except in the CCA where the boundary will remain at 20-fm (37-m). [Note: The CCA is a distinct closed area separate from the non-trawl RCA.] This increases the area in which the fishery can take place, and decreases the

closed area that was implemented to protect overfished groundfish species.

When the 2003 specifications and management measures were developed for the Pacific Coast groundfish fishery in the fall of 2002, the Pacific Council's Groundfish Management Team (GMT) developed a bycatch scorecard to project and track estimated mortality of overfished groundfish species during 2003. The bycatch scorecard represents the best estimates of total catch and is an aid for making management decisions. The scorecard estimates which sectors are taking which overfished species and roughly how much of those species. This scorecard is updated throughout the year as catch data become available and was also updated using observer data. At the Pacific Council's June meeting, the scorecard was updated for inseason adjustments to be effective July 1. The proposed inseason adjustments presented at the June Council meeting remained below the OYs for all overfished species. Because estimated total mortality of all overfished species remained below their OYs for 2003, the California Department of Fish and Game (CDFG) proposed an additional inseason management measure to change the commercial non-trawl and recreational boundary line south of 34°27' N. lat. from 20-fm (37-m) to 30-fm (55-m) to provide some additional fishing area to these sectors. The GMT and Pacific Council then reviewed analysis presented by CDFG on estimates of total mortality based on this change in the boundary line. With estimated total mortality as a result of these changes incorporated into the bycatch scorecard, estimated take of all overfished species remained below the OY for those species, except for bocaccio. Total estimated take of bocaccio, coastwide in all sectors, is predicted to be 21.72 mt in relation to a ≤20 mt OY for 2003 (1.72 mt over the OY). The Pacific Council and NMFS normally implement management measures that are projected to keep the fishery within the OYs for all species, especially overfished species. However, new information on the status of bocaccio that was presented at the June Council meeting indicates that bocaccio is healthier than had been thought at the beginning of 2003. Therefore, as explained below, taking into account this information and the severe adverse economic impacts from the 2003 management measures on the commercial and recreational non-trawl fisheries in southern California, the Pacific Council recommended the change to the boundary line off southern California.

A new stock assessment conducted in 2003 by NMFS, Southwest Fisheries Science Center shows notably increased biomass and productivity for the southern stock of bocaccio compared to the estimated biomass on the 2002 stock assessment and rebuilding analysis. Harvest specifications and management measures for 2003 were shaped by stock assessments for bocaccio, canary rockfish, and yelloweye rockfish, as well as sablefish and whiting. Based on consideration of a 2002 bocaccio stock assessment, rebuilding analysis, and a sustainability analysis, the Pacific Council recommended and NMFS approved an OY for bocaccio of ≤20 mt in 2003.

In May 2003, a new stock assessment and rebuilding analysis for bocaccio were released by the Southwest Fisheries Science Center. The new assessment is different from the bocaccio assessment in 2002, which had indicated that the 1999 year class for bocaccio was weaker than previously thought. The 2002 assessment results were driven by the 2001 Triennial Survey which showed very low abundance of bocaccio and no sign of the 1999 year class. For the new assessment, additional information on larval abundance from the California Cooperative Oceanic Fisheries Investigation, and both length and catch per unit effort (CPUE) data from recreational fisheries were used. The new data, which also assumed a new rate of natural mortality (0.15 as opposed to 0.20 in the 2002 assessment), indicate a much stronger 1999 year class and a sharp increase in abundance. The assessment and rebuilding analysis were reviewed by the Pacific Council's Stock Assessment Review Panel (STAR Panel) and presented to the Pacific Council at the Pacific Council's June 2003 meeting. To bracket uncertainty from the apparently conflicting signals in the different data sources, the STAR Panel recommended two models, STAR B1 and STAR B2. STAR B1 omits data from the Triennial Surveys and holds the estimated recruitment constant to 1959, whereas STAR B2 omits the recreational CPUE data and holds estimated recruitment constant to 1969. Each of these models de-emphasizes the other data source. The Stock Assessment Team (STAT Team) considered a third model, STAT C, that considered both data sources to be important and thus, included both data from the survey and recreational CPUE, and holds estimated recruitment constant to 1959, and places a low emphasis on the stock-recruitment relationship to stabilize estimates of

post-1999 recruitment. The results of the STAT C model were not complete during the STAR Panel review. The STAR Panel did briefly discuss the STAT C model and rejected the approach of the STAT C model because the two sources of data used in the model were contradictory. The results from the STAR Panel review and the third model produced by the STAT Team were then reviewed by the Pacific Council's Scientific and Statistical Committee (SSC) at the June Council meeting. The SSC and other advisory bodies to the Pacific Council (Groundfish Advisory Panel (GAP) and GMT) made recommendations to the Pacific Council based on the new stock assessment and rebuilding analysis, which are considered to be the best available science. The SSC felt the STAT C model was a reasonable way to integrate the survey and CPUE data and, therefore, recommended use of the STAT C model for bocaccio.

Based on the new stock assessment and rebuilding analysis discussed above, the Pacific Council adopted a preliminary range of OYs for bocaccio for 2004. The range of OYs contemplated for 2004 (199–526 mt) is an order of magnitude higher than the ≤20 mt OY implemented for management in 2003. Based on the new bocaccio stock assessment and rebuilding analysis, the Pacific Council also decided it could provide some relief in 2003 to the severely constrained commercial and recreational fishers in southern California without risk to the status of the bocaccio stock.

Generally, stock assessments that are released in 2003 would only be used for management in 2004 and beyond. In this case, however, the new assessment and rebuilding analysis forecast are being considered in implementing this emergency rule to allow for a change in the management measures which is projected to cause the OY for bocaccio to be exceeded. Because of the new science for bocaccio that indicates a modest increase in bocaccio harvest in 2003 should not interfere with stock rebuilding and because of the severe restrictions commercial non-trawl and recreational fisheries in southern California are experiencing, the Pacific Council recommended to NMFS to use the knowledge of the improved bocaccio forecast as a means to relieve restrictions on southern California fisheries without additional risk to the status of the stock.

### **Non-Trawl RCA and Recreational Fisheries South of 34°27' N. Lat.**

Beginning in 2003, the limited entry fixed gear and open access non-trawl fleet in California has been severely constrained by low trip limits and limited nearshore fishing opportunities, with the non-trawl RCA (the area closed to most fishing with non-trawl gear) extending from the 20-fm (37-m) depth contour to latitude and longitude coordinates approximating the 150-fm (274-m) depth contour. These management measures were designed to limit the incidental take of bocaccio rockfish and keep the catch of bocaccio within its 2003 OY of no more than 20 mt. The recreational fishing fleet in California has also been similarly constrained, by a reduced season length (July - December) and has generally been restricted to fishing inshore of the 20-fm (37-m) depth contour, to minimize the incidental take of bocaccio. Prior to 2000, the recreational fishery has been year round. Since 2000, the recreational fishery has been closed for part of the year. Between 2000 and 2002, the California recreational fishery seasons have been from 8 to 10 months long. Beginning in 2001, some area restrictions were implemented. In 2003, the recreational fishery has been restricted to a 6 month season and it has only been allowed mainly inside of the 20-fm (37-m) depth contour.

Taking into account the most recent bocaccio stock assessment information discussed above and the economic hardship resulting from restrictive management measures necessary to keep the incidental catch of bocaccio within its 2003 OY, the CDFG proposed to the Pacific Council that the 2003 bocaccio OY be flexible enough to allow for a modest increase in nearshore fishing opportunity. Specifically, CDFG proposed that during the months of September-December the eastern boundary for the non-trawl RCA and recreational fisheries closed area between 34°27' N. lat. and the U.S. border with Mexico be moved from the 20-fm (37-m) depth contour out to the 30-fm (55-m) depth contour, except in the CCA where the inshore boundary will remain at 20 fm (37 m). [Note: The CCA is a distinct closed area separate from the non-trawl RCA.] This boundary change was recommended by the Pacific Council because it would provide much needed harvest opportunity and economic relief for commercial non-trawl fishermen (limited entry fixed gear and open access non-trawl gear) and recreational fishers with an expected incidental take of an additional 2.22 mt of bocaccio. This proposal would allow

commercial non-trawl and recreational fishermen some access to harvest species of groundfish that occur mainly on the continental shelf (in waters deeper than 20-fm (37-m)) and have OYs that remain largely unharvested in 2003, such as vermillion rockfish.

### **Development of Coordinates Approximating the 30-fm (55-m) Depth Contour**

Unlike the 20-fm (37-m) depth contour which does not have latitude and longitude coordinates approximating the line, CDFG has developed a series of coordinates approximating the 30-fm (55-m) depth contour. All other depth-based boundaries for the groundfish fishery, except the 20-fm (37-m) depth contour, are defined by lines connecting specific latitude and longitude coordinates. The 20-fm (37-m) depth contour does not have a series of coordinates approximating the boundary line because it existed in management before depth-based management was implemented in the fall of 2002 and because it is primarily within State waters. Managers and enforcement officers from CDFG, along with a commercial fixed gear fisherman, met on July 2, 2003, at the GIS Lab in Monterey, CA to develop the coordinates for the 30-fm (55-m) boundary. With this emergency rule, recreational fisheries in southern California will be subject to closed areas defined by a line connecting latitude and longitude coordinates approximating a fathom contour similar to how commercial groundfish fishery participants have been managed since January 1, 2003.

The State of California has, under state law implemented on April 9, 2003, established some Marine Protected Areas (MPAs) in State waters in some areas around the Channel Islands off California. These MPAs are described as Richardson Rock, Harris Point, and Judith Rock off San Miguel, Carrington Point, and South Point off Santa Rosa Island, Painted Cave, Gulf Island, and Scorpion off Santa Cruz Island, and Anacapa Island off Anacapa Island. Fishing is prohibited in these MPAs under California law. NMFS believes it would be too confusing to the public to draw the 30-fm (55-m) area boundary through areas in State waters that will remain closed under State law. Therefore, where the 30-fm (55-m) boundary line would go through the State water area that is closed under State law, the entire area will remain closed and this is so indicated by the coordinates in this rule.

Because the effects of this new boundary line were not previously analyzed, it is not considered a routine management measure under the Groundfish FMP that can be changed through inseason action. Therefore, NMFS has analyzed this management measures in an EA. Because this is not a routine management measure, the Pacific Council recommends and NMFS is implementing an emergency rule to move the boundary line from 20-fm (37-m) to 30-fm (55-m) south of 34°27' N. lat. (except in the CCA where the inshore boundary will remain at 20-fm (37-m) for the commercial non-trawl and recreational fleets. This action is projected to cause the 2003 OY for bocaccio to be exceeded by approximately 1.72 mt. The purpose is to relieve some of the economic pressure on the fishing industry in southern California without risk to the status of the southern stock of bocaccio.

### **Corrections**

In addition to creating new 30-fm (55-m) RCA boundaries along the mainland coast, around the Channel Islands, and around seamounts off the State of California, this emergency rule also contains corrections to existing RCA boundaries. The first correction pertains to the 200-fm (366-m) coastwide RCA boundary. In an areas off the State of California, the 200-fm (366-m) RCA boundary was found to extend into waters as deep as 300-fm (549-m). This resulted in the groundfish trawl fleet being prohibited from fishing in areas where fishing with trawl gear should be permitted. Therefore, to better align the 200-fm (366-m) RCA boundary with the 200-fm (366-m) depth contour and allow the groundfish trawl fleet access to areas where fishing with trawl gear should be permitted, several of the coordinates for the 200-fm (366-m) RCA boundary were corrected. Throughout 2003, NMFS has clearly specified trawl RCA boundaries around islands and seamounts off California, however, we have not clearly specified the non-trawl RCA boundaries around those same islands and seamounts. This emergency rule corrects that oversight by clearly specifying the non-trawl RCA boundaries around islands and seamounts off California.

With the creation of the new 30-fm (55-m) RCA boundaries off California, coordinates were generated for additional islands (i.e., the northern Channel Islands) off California as well as the southern California islands that previously had trawl RCA boundaries. Through the process of reviewing maps of and bathymetry data for these islands,

the State of California requested two name changes. This emergency rules addresses the name change by more appropriately referring to the Orange County Seamount as Lasuen Knoll and referring to Mira's San Diego Rise as San Diego Rise. Additionally, RCA boundaries have been unnecessarily generated for two of the southern Channel Islands, specifically Santa Barbara Island and San Nicholas Island. After closely reviewing maps of these islands, the State of California realized that these islands fall completely within the CCA; therefore, groundfish fishing is already prohibited around those islands seaward of the 20-fm (37-m) depth contour. [Note: The CCA is a distinct closed area separate from the non-trawl RCA.] To help minimize the number of RCA boundary coordinates, California requested that the RCA boundaries around Santa Barbara Island and San Nicholas island be removed. In light of these corrections and in an effort to be clear about which islands belong to which island groupings, this emergency rule specifies that the northern Channel Islands include San Miguel, Santa Rosa, Santa Cruz, and Anacapa; that the southern Channel Islands include Santa Catalina Island and San Clemente Island; and that the seamounts include Lasuen Knoll and San Diego Rise.

**NMFS Actions**

For the reasons stated herein, NMFS concurs with the Pacific Council's recommendations and hereby announces the following changes to the 2003 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), at 68 FR 40187 (July 7, 2003) and at 68 FR 43473 (July 23, 2003)) to read as follows:

1. On page 11214, in the **Federal Register** document published on March 7, 2003, section IV., under A. General Definitions and Provisions, paragraph (19)(e), section (x) is revised to read as follows:

\* \* \* \* \*

(x) The 150-fm (274-m) depth contour used around the southern Channel Islands and seamounts off the State of California is defined by straight lines around each island/seamount connecting all of the following points in the order stated:

- (A) Santa Catalina Island
- (1) 33°19.00' N. lat., 118°15.00' W. long.;
- (2) 33°26.00' N. lat., 118°22.00' W. long.;

- (3) 33°28.00' N. lat., 118°28.00' W. long.;
- (4) 33°30.00' N. lat., 118°31.00' W. long.;
- (5) 33°31.00' N. lat., 118°37.00' W. long.;
- (6) 33°29.00' N. lat., 118°41.00' W. long.;
- (7) 33°23.00' N. lat., 118°31.00' W. long.;
- (8) 33°21.00' N. lat., 118°33.00' W. long.;
- (9) 33°18.00' N. lat., 118°28.00' W. long.;
- (10) 33°16.00' N. lat., 118°13.00' W. long.;

and

- (11) 33°19.00' N. lat., 118°15.00' W. long.
- (B) San Clemente Island
- (1) 32°48.50' N. lat., 118°18.34' W. long.;
- (2) 32°56.00' N. lat., 118°29.00' W. long.;
- (3) 33°03.00' N. lat., 118°34.00' W. long.;
- (4) 33°05.00' N. lat., 118°38.00' W. long.;
- (5) 33°03.00' N. lat., 118°40.00' W. long.;
- (6) 32°48.00' N. lat., 118°31.00' W. long.;
- (7) 32°43.00' N. lat., 118°24.00' W. long.;

and

- (8) 32°48.50' N. lat., 118°18.34' W. long.
- (C) Lasuen Knoll
- (1) 33°25.00' N. lat., 118°01.00' W. long.;
- (2) 33°25.00' N. lat., 117°58.00' W. long.;
- (3) 33°23.00' N. lat., 117°58.00' W. long.;
- (4) 33°23.00' N. lat., 118°01.00' W. long.;

and

- (5) 33°25.00' N. lat., 118°01.00' W. long.
- \* \* \* \* \*
- 2. On page 32683, in the **Federal Register** document published on June 2, 2003, section IV., under A. General Definitions and Provisions, paragraph (19)(e), section (xiii) is revised to read as follows:
- \* \* \* \* \*

(xiii) The 200-fm (366-m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico as a western boundary for the trawl RCA is defined by straight lines connecting all of the following points in the order stated:

\* \* \* \* \*

(132) 40°37.11' N. lat., 124°38.03' W. long.;

- (133) 40°34.22' N. lat., 124°41.13' W. long.;

(134) 40°32.90' N. lat., 124°41.83i W. long.;

- (135) 40°31.30' N. lat., 124°40.97' W. long.;
- (136) 40°29.63' N. lat., 124°38.04' W. long.;
- (137) 40°24.99' N. lat., 124°36.37' W. long.;
- (138) 40°22.23' N. lat., 124°31.78' W. long.;
- (139) 40°16.95' N. lat., 124°31.93' W. long.;
- (140) 40°17.59' N. lat., 124°45.23' W. long.;
- (141) 40°13.25' N. lat., 124°32.36' W. long.;
- (142) 40°10.16' N. lat., 124°24.57' W. long.;
- (143) 40°6.43' N. lat., 124°19.19' W. long.;
- (144) 40°7.07' N. lat., 124°17.75' W. long.;
- (145) 40°5.53' N. lat., 124°18.02' W. long.;
- (146) 40°4.71' N. lat., 124°18.10' W. long.;
- (147) 40°2.35' N. lat., 124°16.57' W. long.;
- (148) 40°1.53' N. lat., 124°9.82' W. long.;
- (149) 39°58.28' N. lat., 124°13.51' W. long.;
- (150) 39°56.60' N. lat., 124°12.02' W. long.;
- (151) 39°55.20' N. lat., 124°07.96' W. long.;
- (152) 39°52.55' N. lat., 124°09.40' W. long.;
- (153) 39°42.68' N. lat., 124°02.52' W. long.;
- (154) 39°35.96' N. lat., 123°59.49' W. long.;
- (155) 39°34.62' N. lat., 123°59.59' W. long.;
- (156) 39°33.78' N. lat., 123°56.82' W. long.;
- (157) 39°33.02' N. lat., 123°57.07' W. long.;
- (158) 39°32.21' N. lat., 123°59.13' W. long.;
- (159) 39°7.85' N. lat., 123°59.07' W. long.;
- (160) 39°00.90' N. lat., 123°57.88' W. long.;
- (161) 38°59.95' N. lat., 123°56.99' W. long.;
- (162) 38°56.82' N. lat., 123°57.74' W. long.;
- (163) 38°56.40' N. lat., 123°59.41' W. long.;
- (164) 38°50.23' N. lat., 123°55.48' W. long.;
- (165) 38°46.77' N. lat., 123°51.49' W. long.;
- (166) 38°45.28' N. lat., 123°51.56' W. long.;
- (167) 38°42.76' N. lat., 123°49.76' W. long.;
- (168) 38°41.54' N. lat., 123°47.76' W. long.;
- (169) 38°40.98' N. lat., 123°48.07' W. long.;

- (170) 38°38.03' N. lat., 123°45.78' W. long.;
- (171) 38°37.20' N. lat., 123°44.01' W. long.;
- (172) 38°33.44' N. lat., 123°41.75' W. long.;
- (173) 38°29.45' N. lat., 123°38.42' W. long.;
- (174) 38°27.89' N. lat., 123°38.38' W. long.;
- (175) 38°23.68' N. lat., 123°35.40' W. long.;
- (176) 38°19.63' N. lat., 123°33.98' W. long.;
- (177) 38°16.23' N. lat., 123°31.83' W. long.;
- (178) 38°14.79' N. lat., 123°29.91' W. long.;
- (179) 38°14.12' N. lat., 123°26.29' W. long.;
- (180) 38°10.85' N. lat., 123°25.77' W. long.;
- (181) 38°13.15' N. lat., 123°28.18' W. long.;
- (182) 38°12.28' N. lat., 123°29.81' W. long.;
- (183) 38°10.19' N. lat., 123°29.04' W. long.;
- (184) 38°07.94' N. lat., 123°28.45' W. long.;
- (185) 38°06.51' N. lat., 123°30.89' W. long.;
- (186) 38°04.21' N. lat., 123°31.96' W. long.;
- (187) 38°02.07' N. lat., 123°31.3' W. long.;
- (188) 38°00.00' N. lat., 123°29.55' W. long.;
- (189) 37°58.13' N. lat., 123°27.21' W. long.;
- (190) 37°55.01' N. lat., 123°27.46' W. long.;
- (191) 37°51.40' N. lat., 123°25.18' W. long.;
- (192) 37°43.97' N. lat., 123°11.49' W. long.;
- (193) 37°36.00' N. lat., 123°02.25' W. long.;
- (194) 37°13.65' N. lat., 122°54.18' W. long.;
- (195) 37°00.66' N. lat., 122°37.84' W. long.;
- (196) 36°57.40' N. lat., 122°28.25' W. long.;
- (197) 36°59.25' N. lat., 122°25.54' W. long.;
- (198) 36°56.88' N. lat., 122°25.42' W. long.;
- (199) 36°57.40' N. lat., 122°22.62' W. long.;
- (200) 36°55.43' N. lat., 122°22.43' W. long.;
- (201) 36°52.29' N. lat., 122°13.18' W. long.;
- (202) 36°47.12' N. lat., 122°07.56' W. long.;
- (203) 36°47.10' N. lat., 122°02.11' W. long.;
- (204) 36°43.76' N. lat., 121°59.11' W. long.;
- (205) 36°38.85' N. lat., 122°02.20' W. long.;
- (206) 36°23.41' N. lat., 122°00.11' W. long.;
- (207) 36°19.68' N. lat., 122°06.93' W. long.;
- (208) 36°14.75' N. lat., 122°01.51' W. long.;
- (210) 36°06.67' N. lat., 121°41.06' W. long.;
- (211) 35°57.07' N. lat., 121°34.32' W. long.;
- (212) 35°52.31' N. lat., 121°32.45' W. long.;
- (213) 35°51.21' N. lat., 121°30.91' W. long.;
- (214) 35°46.32' N. lat., 121°30.30' W. long.;
- (215) 35°33.74' N. lat., 121°20.10' W. long.;
- (216) 35°31.37' N. lat., 121°15.23' W. long.;
- (217) 35°23.32' N. lat., 121°11.44' W. long.;
- (218) 35°15.28' N. lat., 121°04.45' W. long.;
- (219) 35°07.08' N. lat., 121°00.3' W. long.;
- (220) 34°57.46' N. lat., 120°58.23' W. long.;
- (221) 34°44.25' N. lat., 120°58.29' W. long.;
- (222) 34°32.30' N. lat., 120°50.22' W. long.;
- (223) 34°19.08' N. lat., 120°31.21' W. long.;
- (224) 34°17.72' N. lat., 120°19.26' W. long.;
- (225) 34°22.45' N. lat., 120°12.81' W. long.;
- (226) 34°21.36' N. lat., 119°54.88' W. long.;
- (227) 34°09.95' N. lat., 119°46.18' W. long.;
- (228) 34°09.08' N. lat., 119°57.53' W. long.;
- (229) 34°07.53' N. lat., 120°06.35' W. long.;
- (230) 34°10.54' N. lat., 120°19.07' W. long.;
- (231) 34°14.68' N. lat., 120°29.48' W. long.;
- (232) 34°09.51' N. lat., 120°38.32' W. long.;
- (233) 34°03.06' N. lat., 120°35.54' W. long.;
- (234) 33°56.39' N. lat., 120°28.47' W. long.;
- (235) 33°50.25' N. lat., 120°09.43' W. long.;
- (236) 33°37.96' N. lat., 120°00.08' W. long.;
- (237) 33°34.52' N. lat., 119°51.84' W. long.;
- (238) 33°35.51' N. lat., 119°48.49' W. long.;
- (239) 33°42.76' N. lat., 119°47.77' W. long.;
- (240) 33°53.62' N. lat., 119°53.28' W. long.;
- (241) 33°57.61' N. lat., 119°31.26' W. long.;
- (242) 33°56.34' N. lat., 119°26.4' W. long.;
- (243) 33°57.79' N. lat., 119°26.85' W. long.;
- (244) 33°58.88' N. lat., 119°20.06' W. long.;
- (245) 34°02.65' N. lat., 119°15.11' W. long.;
- (246) 33°59.02' N. lat., 119°02.99' W. long.;
- (247) 33°57.61' N. lat., 118°42.07' W. long.;
- (248) 33°50.76' N. lat., 118°37.98' W. long.;
- (249) 33°38.41' N. lat., 118°17.03' W. long.;
- (250) 33°37.14' N. lat., 118°18.39' W. long.;
- (251) 33°35.51' N. lat., 118°18.03' W. long.;
- (252) 33°30.68' N. lat., 118°10.35' W. long.;
- (253) 33°32.49' N. lat., 117°51.85' W. long.;
- (254) 32°58.87' N. lat., 117°20.36' W. long.; and
- (255) 32°35.53' N. lat., 117°29.67' W. long.
- \* \* \* \* \*
3. On page 32685 in the **Federal Register** document published on June 2, 2003, section IV., under A. General Definitions and Provisions, paragraph (19)(e), section (xiv) is revised to read as follows:
- \* \* \* \* \*
- (xiv) The 200-fm (366-m) depth contour used around the southern Channel Islands and seamounts off the State of California is defined by straight lines around each island/seamount connecting all of the following points in the order stated:
- (A) Santa Catalina Island
- (1) 33°32.06' N. lat., 118°44.52' W. long.;
- (2) 33°31.36' N. lat., 118°35.28' W. long.;
- (3) 33°30.10' N. lat., 118°30.82' W. long.;
- (4) 33°27.91' N. lat., 118°26.83' W. long.;
- (5) 33°26.27' N. lat., 118°21.35' W. long.;
- (6) 33°21.34' N. lat., 118°15.24' W. long.;
- (7) 33°13.66' N. lat., 118°08.98' W. long.;
- (8) 33°17.15' N. lat., 118°28.35' W. long.;
- (9) 33°20.94' N. lat., 118°34.34' W. long.;
- (10) 33°23.32' N. lat., 118°32.60' W. long.;
- (11) 33°28.68' N. lat., 118°44.93' W. long.; and

(12) 33°32.06' N. lat., 118°44.52' W. long.

(B) San Clemente Island

(1) 33°05.89' N. lat., 118°39.45' W. long.;

(2) 33°02.68' N. lat., 118°33.14' W. long.;

(3) 32°57.32' N. lat., 118°29.12' W. long.;

(4) 32°47.51' N. lat., 118°17.88' W. long.;

(5) 32°41.22' N. lat., 118°23.78' W. long.;

(6) 32°46.83' N. lat., 118°32.10' W. long.;

(7) 33°01.61' N. lat., 118°40.64' W. long.; and

(8) 33°5.89' N. lat., 118°39.45' W. long.

(C) Lasuen Knoll

(1) 33°25.91' N. lat., 117°59.44' W. long.;

(2) 33°23.37' N. lat., 117°56.97' W. long.;

(3) 33°22.82' N. lat., 117°59.50' W. long.;

(4) 33°25.24' N. lat., 118°01.68' W. long.; and

(5) 33°25.91' N. lat., 117°59.44' W. long.

(D) San Diego Rise

(1) 32°50.30' N. lat., 117°50.18' W. long.;

(2) 32°44.01' N. lat., 117°44.46' W. long.;

(3) 32°41.34' N. lat., 117°45.86' W. long.;

(4) 32°45.45' N. lat., 117°50.09' W. long.;

(5) 32°50.10i N. lat., 117°50.76' W. long.; and

(6) 32°50.30' N. lat., 117°50.18' W. long.

\* \* \* \* \*

4. In section IV., under A. General Definitions and Provisions, paragraph (19)(e), sections (xv), (xvi), and (xviii) are added to read as follows:

\* \* \* \* \*

(xv) The 30-fm (55-m) depth-contour between 34°27' N. lat. and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:

(1) 34°27.00' N. lat., 120°30.31' W. long.;

(2) 34°25.84' N. lat., 120°27.04' W. long.;

(3) 34°25.16' N. lat., 120°20.18' W. long.;

(4) 34°25.88' N. lat., 120°18.24' W. long.;

(5) 34°27.26' N. lat., 120°12.47' W. long.;

(6) 34°26.27' N. lat., 120°02.22' W. long.;

(7) 34°23.41' N. lat., 119°53.04' W. long.;

(8) 34°23.33' N. lat., 119°48.74' W. long.;

(9) 34°22.31' N. lat., 119°41.36' W. long.;

(10) 34°21.72' N. lat., 119°40.14' W. long.;

(11) 34°21.25' N. lat., 119°41.18' W. long.;

(12) 34°20.25' N. lat., 119°39.03' W. long.;

(13) 34°19.87' N. lat., 119°33.65' W. long.;

(14) 34°18.67' N. lat., 119°30.16' W. long.;

(15) 34°16.95' N. lat., 119°27.09' W. long.;

(16) 34°13.02' N. lat., 119°26.99' W. long.;

(17) 34°08.62' N. lat., 119°20.89' W. long.;

(18) 34°06.95' N. lat., 119°17.68' W. long.;

(19) 34°05.93' N. lat., 119°15.17' W. long.;

(20) 34°08.42' N. lat., 119°13.11' W. long.;

(21) 34°05.23' N. lat., 119°13.34' W. long.;

(22) 34°04.98' N. lat., 119°11.39' W. long.;

(23) 34°04.55' N. lat., 119°11.09' W. long.;

(24) 34°04.15' N. lat., 119°09.35' W. long.;

(25) 34°04.89' N. lat., 119°07.86' W. long.;

(26) 34°04.08' N. lat., 119°07.33' W. long.;

(27) 34°04.01' N. lat., 119°06.89' W. long.;

(28) 34°05.08' N. lat., 119°07.02' W. long.;

(29) 34°05.27' N. lat., 119°04.95' W. long.;

(30) 34°04.51' N. lat., 119°04.07' W. long.;

(31) 34°02.26' N. lat., 118°59.88' W. long.;

(32) 34°01.08' N. lat., 118°59.77' W. long.;

(33) 34°00.94' N. lat., 118°51.65' W. long.;

(34) 33°59.77' N. lat., 118°49.26' W. long.;

(35) 34°00.04' N. lat., 118°48.92' W. long.;

(36) 33°59.65' N. lat., 118°48.43' W. long.;

(37) 33°59.46' N. lat., 118°47.25' W. long.;

(38) 33°59.08' N. lat., 118°45.89' W. long.;

(39) 34°00.21' N. lat., 118°37.64' W. long.;

(40) 33°59.26' N. lat., 118°34.58' W. long.;

(41) 33°58.07' N. lat., 118°33.36' W. long.;

(42) 33°53.76' N. lat., 118°30.14' W. long.;

(43) 33°51.00' N. lat., 118°25.19' W. long.;

(44) 33°50.07' N. lat., 118°24.07' W. long.;

(45) 33°50.16' N. lat., 118°23.77' W. long.;

(46) 33°48.08' N. lat., 118°25.31' W. long.;

(47) 33°47.07' N. lat., 118°27.07' W. long.;

(48) 33°46.12' N. lat., 118°26.87' W. long.;

(49) 33°44.15' N. lat., 118°25.15' W. long.;

(50) 33°43.54' N. lat., 118°23.02' W. long.;

(51) 33°41.35' N. lat., 118°18.86' W. long.;

(52) 33°39.96' N. lat., 118°17.37' W. long.;

(53) 33°40.12' N. lat., 118°16.33' W. long.;

(54) 33°39.28' N. lat., 118°16.21' W. long.;

(55) 33°38.04' N. lat., 118°14.86' W. long.;

(56) 33°36.57' N. lat., 118°14.67' W. long.;

(57) 33°34.93' N. lat., 118°10.94' W. long.;

(58) 33°35.14' N. lat., 118°08.61' W. long.;

(59) 33°35.69' N. lat., 118°07.68' W. long.;

(60) 33°36.21' N. lat., 118°07.53' W. long.;

(61) 33°36.43' N. lat., 118°06.73' W. long.;

(62) 33°36.05' N. lat., 118°06.15' W. long.;

(63) 33°36.32' N. lat., 118°03.91' W. long.;

(64) 33°35.69' N. lat., 118°03.64' W. long.;

(65) 33°34.62' N. lat., 118°00.04' W. long.;

(66) 33°34.08' N. lat., 117°57.73' W. long.;

(67) 33°35.57' N. lat., 117°56.62' W. long.;

(68) 33°35.46' N. lat., 117°55.99' W. long.;

(69) 33°35.98' N. lat., 117°55.99' W. long.;

(70) 33°35.46' N. lat., 117°55.38' W. long.;

(71) 33°35.21' N. lat., 117°53.46' W. long.;

(72) 33°33.61' N. lat., 117°50.45' W. long.;

(73) 33°31.41' N. lat., 117°47.28' W. long.;

(74) 33°27.54' N. lat., 117°44.36' W. long.;

(75) 33°26.63' N. lat., 117°43.17' W. long.;

(76) 33°25.21' N. lat., 117°40.09' W. long.;

(77) 33°20.33' N. lat., 117°35.99' W. long.;

(78) 33°16.35' N. lat., 117°31.51' W. long.;  
 (79) 33°11.53' N. lat., 117°26.81' W. long.;  
 (80) 33°07.59' N. lat., 117°21.13' W. long.;  
 (81) 33°02.21' N. lat., 117°19.05' W. long.;  
 (82) 32°56.55' N. lat., 117°17.07' W. long.;  
 (83) 32°54.61' N. lat., 117°16.06' W. long.;  
 (84) 32°52.32' N. lat., 117°15.97' W. long.;  
 (85) 32°51.48' N. lat., 117°16.15' W. long.;  
 (86) 32°51.85' N. lat., 117°17.26' W. long.;  
 (87) 32°51.55' N. lat., 117°19.01' W. long.;  
 (88) 32°49.55' N. lat., 117°19.63' W. long.;  
 (89) 32°46.71' N. lat., 117°18.32' W. long.;  
 (90) 32°36.35' N. lat., 117°15.68' W. long.; and  
 (91) 32°32.85' N. lat., 117°15.44' W. long.

\* \* \* \* \*

5. In section IV., under A. General Definitions and Provisions, paragraph (19)(e), section (xvi) is added to read as follows:

\* \* \* \* \*

(xvi) The 30–fm (55–m) depth contour around the northern Channel Islands off the State of California is defined by straight lines connecting all of the following points in the order stated:

(1) 34°01.41' N. lat., 119°20.61' W. long.;  
 (2) 34°00.98' N. lat., 119°20.46' W. long.;  
 (3) 34°00.53' N. lat., 119°20.98' W. long.;  
 (4) 34°00.17' N. lat., 119°21.83' W. long.;  
 (5) 33°59.65' N. lat., 119°24.45' W. long.;  
 (6) 33°59.68' N. lat., 119°25.20' W. long.;  
 (7) 33°59.95' N. lat., 119°26.25' W. long.;  
 (8) 33°59.87' N. lat., 119°27.27' W. long.;  
 (9) 33°59.55' N. lat., 119°28.02' W. long.;  
 (10) 33°58.63' N. lat., 119°36.48' W. long.;  
 (11) 33°57.62' N. lat., 119°41.13' W. long.;  
 (12) 33°57.00' N. lat., 119°42.20' W. long.;  
 (13) 33°56.93' N. lat., 119°48.00' W. long.;  
 (14) 33°57.70' N. lat., 119°48.00' W. long.;  
 (between coordinates (14) and (15), the boundary follows the shoreline)

(15) 33°58.00' N. lat., 119°51.00' W. long.;  
 (16) 33°58.00' N. lat., 119°52.00' W. long.;  
 (17) 33°58.54' N. lat., 119°52.80' W. long.;  
 (18) 33°59.74' N. lat., 119°54.19' W. long.;  
 (19) 33°59.97' N. lat., 119°54.66' W. long.;  
 (20) 33°59.83' N. lat., 119°56.00' W. long.;  
 (21) 33°59.18' N. lat., 119°57.17' W. long.;  
 (22) 33°57.83' N. lat., 119°56.74' W. long.;  
 (23) 33°55.71' N. lat., 119°56.89' W. long.;  
 (24) 33°53.89' N. lat., 119°57.68' W. long.;  
 (25) 33°52.93' N. lat., 119°59.80' W. long.;  
 (26) 33°52.79' N. lat., 120°1.81' W. long.;  
 (27) 33°52.51' N. lat., 120°03.08' W. long.;  
 (28) 33°53.12' N. lat., 120°04.88' W. long.;  
 (29) 33°53.12' N. lat., 120°05.80' W. long.;  
 (30) 33°52.94' N. lat., 120°06.50' W. long.;  
 (31) 33°53.80' N. lat., 120°06.50' W. long.;  
 (between coordinates (31) and (32), the boundary follows the shoreline)  
 (32) 33°55.00' N. lat., 120°10.00' W. long.;  
 (33) 33°54.03' N. lat., 120°10.00' W. long.;  
 (34) 33°54.58' N. lat., 120°11.82' W. long.;  
 (35) 33°57.08' N. lat., 120°14.58' W. long.;  
 (36) 33°59.50' N. lat., 120°16.72' W. long.;  
 (37) 33°59.63' N. lat., 120°17.88' W. long.;  
 (38) 34°00.30' N. lat., 120°19.14' W. long.;  
 (39) 34°00.02' N. lat., 120°19.68' W. long.;  
 (40) 34°00.08' N. lat., 120°21.73' W. long.;  
 (41) 34°00.94' N. lat., 120°24.82' W. long.;  
 (42) 34°00.97' N. lat., 120°25.30' W. long.;  
 (43) 34°01.50' N. lat., 120°25.30' W. long.;  
 (between coordinates (43) and (44), the boundary follows the shoreline)  
 (44) 34°01.80' N. lat., 120°26.60' W. long.;  
 (45) 34°01.05' N. lat., 120°26.60' W. long.;  
 (46) 34°01.11' N. lat., 120°27.43' W. long.;  
 (47) 34°00.96' N. lat., 120°28.09' W. long.;

(48) 34°01.56' N. lat., 120°28.71' W. long.;  
 (49) 34°01.80' N. lat., 120°28.31' W. long.;  
 (50) 34°03.60' N. lat., 120°28.87' W. long.;  
 (51) 34°03.60' N. lat., 120°28.20' W. long.;  
 (52) 34°05.35' N. lat., 120°28.20' W. long.;  
 (53) 34°05.30' N. lat., 120°27.33' W. long.;  
 (54) 34°05.65' N. lat., 120°26.79' W. long.;  
 (55) 34°05.69' N. lat., 120°25.82' W. long.;  
 (56) 34°07.24' N. lat., 120°24.98' W. long.;  
 (57) 34°06.00' N. lat., 120°23.30' W. long.;  
 (58) 34°03.10' N. lat., 120°23.30' W. long.;  
 (between coordinates (58) and (59), the boundary follows the shoreline)  
 (59) 34°03.50' N. lat., 120°21.30' W. long.;  
 (60) 34°02.90' N. lat., 120°20.20' W. long.;  
 (between coordinates (60) and (61), the boundary follows the shoreline)  
 (61) 34°01.80' N. lat., 120°18.40' W. long.;  
 (62) 34°03.61' N. lat., 120°18.40' W. long.;  
 (63) 34°03.25' N. lat., 120°16.64' W. long.;  
 (64) 34°04.33' N. lat., 120°14.22' W. long.;  
 (65) 34°04.11' N. lat., 120°11.17' W. long.;  
 (66) 34°03.72' N. lat., 120°09.93' W. long.;  
 (67) 34°03.81' N. lat., 120°08.96' W. long.;  
 (68) 34°03.36' N. lat., 120°06.52' W. long.;  
 (69) 34°04.80' N. lat., 120°04.00' W. long.;  
 (70) 34°04.00' N. lat., 120°04.00' W. long.;  
 (71) 34°04.00' N. lat., 120°05.20' W. long.;  
 (72) 34°01.30' N. lat., 120°05.20' W. long.;  
 (between coordinates (72) and (73), the boundary follows the shoreline)  
 (73) 34°00.50' N. lat., 120°02.80' W. long.;  
 (74) 34°00.49' N. lat., 120°01.01' W. long.;  
 (75) 34°04.00' N. lat., 120°01.00' W. long.;  
 (76) 34°03.99' N. lat., 120°00.15' W. long.;  
 (77) 34°03.51' N. lat., 119°59.42' W. long.;  
 (78) 34°03.79' N. lat., 119°58.15' W. long.;  
 (79) 34°04.72' N. lat., 119°57.61' W. long.;

(80) 34°05.14' N. lat., 119°55.17' W. long.;

(81) 34°04.85' N. lat., 119°53.00' W. long.;

(82) 34°04.50' N. lat., 119°53.00' W. long.;

(between coordinates (82) and (83), the boundary follows the shoreline)

(83) 34°04.00' N. lat., 119°51.00' W. long.;

(84) 34°04.49' N. lat., 119°51.01' W. long.;

(85) 34°03.79' N. lat., 119°48.86' W. long.;

(86) 34°03.79' N. lat., 119°45.46' W. long.;

(87) 34°03.27' N. lat., 119°44.17' W. long.;

(88) 34°03.29' N. lat., 119°43.30' W. long.;

(89) 34°01.71' N. lat., 119°40.83' W. long.;

(90) 34°01.74' N. lat., 119°37.92' W. long.;

(91) 34°02.07' N. lat., 119°37.17' W. long.;

(92) 34°02.93' N. lat., 119°36.52' W. long.;

(93) 34°3.48' N. lat., 119°35.50' W. long.;

(94) 34°02.94' N. lat., 119°35.50' W. long.;

(between coordinates (94) and (95), the boundary follows the shoreline)

(95) 34°02.80' N. lat., 119°32.80' W. long.;

(96) 34°03.56' N. lat., 119°32.80' W. long.;

(97) 34°02.72' N. lat., 119°31.84' W. long.;

(98) 34°02.20' N. lat., 119°30.53' W. long.;

(99) 34°01.49' N. lat., 119°30.20' W. long.;

(100) 34°00.66' N. lat., 119°28.62' W. long.;

(101) 34°00.66' N. lat., 119°27.57' W. long.;

(102) 34°01.40' N. lat., 119°26.94' W. long.;

(103) 34°01.35' N. lat., 119°26.70' W. long.;

(104) 34°00.80' N. lat., 119°26.70' W. long.;

(between coordinates (104) and (105), the boundary follows the shoreline)

(105) 34°00.40' N. lat., 119°24.60' W. long.;

(between coordinates (105) and (106), the boundary follows the shoreline)

(106) 34°01.00' N. lat., 119°21.40' W. long.;

(107) 34°01.49' N. lat., 119°21.40' W. long.; and

(108) 34°01.41' N. lat., 119°20.61' W. long.

(xvii) The 30–fm (55–m) depth contour used around southern Channel Islands off the State of California is

defined by straight lines around each island/seamount connecting all of the following points in the order stated:

(A) Santa Catalina Island

(1) 33°19.13' N. lat., 118°18.04' W. long.;

(2) 33°18.32' N. lat., 118°18.20' W. long.;

(3) 33°17.82' N. lat., 118°18.73' W. long.;

(4) 33°17.54' N. lat., 118°19.52' W. long.;

(5) 33°17.99' N. lat., 118°21.71' W. long.;

(6) 33°18.48' N. lat., 118°22.82' W. long.;

(7) 33°18.77' N. lat., 118°26.95' W. long.;

(8) 33°19.69' N. lat., 118°28.87' W. long.;

(9) 33°20.53' N. lat., 118°30.52' W. long.;

(10) 33°20.46' N. lat., 118°31.47' W. long.;

(11) 33°20.98' N. lat., 118°31.39' W. long.;

(12) 33°20.81' N. lat., 118°30.49' W. long.;

(13) 33°21.38' N. lat., 118°30.07' W. long.;

(14) 33°23.12' N. lat., 118°29.31' W. long.;

(15) 33°24.95' N. lat., 118°29.70' W. long.;

(16) 33°25.39' N. lat., 118°30.50' W. long.;

(17) 33°25.21' N. lat., 118°30.79' W. long.;

(18) 33°25.65' N. lat., 118°31.60' W. long.;

(19) 33°25.65' N. lat., 118°32.04' W. long.;

(20) 33°25.94' N. lat., 118°32.96' W. long.;

(21) 33°25.86' N. lat., 118°33.49' W. long.;

(22) 33°26.06' N. lat., 118°34.12' W. long.;

(23) 33°28.28' N. lat., 118°36.60' W. long.;

(24) 33°28.83' N. lat., 118°36.42' W. long.;

(25) 33°28.72' N. lat., 118°34.93' W. long.;

(26) 33°28.71' N. lat., 118°33.61' W. long.;

(27) 33°28.81' N. lat., 118°32.95' W. long.;

(28) 33°28.73' N. lat., 118°32.07' W. long.;

(29) 33°27.55' N. lat., 118°30.14' W. long.;

(30) 33°27.86' N. lat., 118°29.41' W. long.;

(31) 33°26.98' N. lat., 118°29.06' W. long.;

(32) 33°26.96' N. lat., 118°28.58' W. long.;

(33) 33°26.76' N. lat., 118°28.40' W. long.;

(34) 33°26.52' N. lat., 118°27.66' W. long.;

(35) 33°26.31' N. lat., 118°27.41' W. long.;

(36) 33°25.09' N. lat., 118°23.13' W. long.;

(37) 33°24.80' N. lat., 118°22.86' W. long.;

(38) 33°24.60' N. lat., 118°22.02' W. long.;

(39) 33°22.82' N. lat., 118°21.04' W. long.;

(40) 33°20.23' N. lat., 118°18.45' W. long.; and

(41) 33°19.13' N. lat., 118°18.04' W. long.

(B) San Clemente Island

(1) 33°03.37' N. lat., 118°37.76' W. long.;

(2) 33°02.72' N. lat., 118°38.12' W. long.;

(3) 33°02.18' N. lat., 118°37.46' W. long.;

(4) 33°00.66' N. lat., 118°37.36' W. long.;

(5) 33°00.08' N. lat., 118°36.94' W. long.;

(6) 33°00.11' N. lat., 118°36.00' W. long.;

(7) 32°58.02' N. lat., 118°35.41' W. long.;

(8) 32°56.00' N. lat., 118°33.59' W. long.;

(9) 32°54.76' N. lat., 118°33.58' W. long.;

(10) 32°53.97' N. lat., 118°32.45' W. long.;

(11) 32°51.18' N. lat., 118°30.83' W. long.;

(12) 32°50.00' N. lat., 118°29.68' W. long.;

(13) 32°49.72' N. lat., 118°28.33' W. long.;

(14) 32°47.88' N. lat., 118°26.09' W. long.;

(15) 32°47.03' N. lat., 118°25.73' W. long.;

(16) 32°47.28' N. lat., 118°24.83' W. long.;

(17) 32°48.12' N. lat., 118°24.33' W. long.;

(18) 32°48.74' N. lat., 118°23.39' W. long.;

(19) 32°48.69' N. lat., 118°21.75' W. long.;

(20) 32°49.06' N. lat., 118°20.53' W. long.;

(21) 32°50.28' N. lat., 118°21.09' W. long.;

(22) 32°51.73' N. lat., 118°23.86' W. long.;

(23) 32°52.79' N. lat., 118°25.08' W. long.;

(24) 32°54.03' N. lat., 118°26.83' W. long.;

(25) 32°54.07' N. lat., 118°27.55' W. long.;

(26) 32°55.49' N. lat., 118°29.04' W. long.;

(27) 32°59.58'N. lat., 118°32.51' W.  
long.;  
(28) 32°59.89'N. lat., 118°32.52' W.  
long.;  
(29) 33°00.29'N. lat., 118°32.73' W.  
long.;  
(30) 33°00.85'N. lat., 118°33.05' W.  
long.;

(31) 33°01.07'N. lat., 118°33.64' W.  
long.;  
(32) 33°02.09'N. lat., 118°35.35' W.  
long.;  
(33) 33°02.61'N. lat., 118°36.96' W.  
long.; and  
(34) 33°03.37'N. lat., 118°37.76' W.  
long.

\* \* \* \* \*

6. On page 11221, in section IV.,  
under B. Limited Entry Fishery, Table 4  
(South) is revised to read as follows:

\* \* \* \* \*

**BILLING CODE 3510-22-S**

**Table 4 (South). Trip Limits for Limited Entry Fixed Gear South of 40°10' N. Latitude<sup>1/</sup>**

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

effective 9/1/03

		JUL-AUG	SEP-OCT	NOV-DEC
<b>Rockfish Conservation Area<sup>7/</sup> (RCA):</b>				
40°10' - 34°27' N. lat.		20 fm - 150 fm		
South of 34°27' N. lat.		20 fm - 150 fm (also applies around islands) (See footnote 8 for description of Pt. Fermin/Newport South Jetty open area)	30 fm - 150 fm (also applies around islands)	
<b>1 Minor slope rockfish<sup>4/</sup></b>				
<b>2</b> 40°10' - 38° N. lat.		No more than 25% of weight of sablefish landed/ trip		1,800 lb/ 2 months
<b>3</b> South of 38° N. lat.		30,000 lb/ 2 months		
<b>4 Splitnose</b>				
<b>5</b> 40°10' - 38° N. lat.		1,800 lb/ 2 months		
<b>6</b> South of 38° N. lat.		20,000 lb/ 2 months		
<b>7 Sablefish</b>				
<b>8</b> 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		
<b>9</b> South of 36° N. lat.		350 lb/ day, or 1 landing per week of up to 1,050 lb		
<b>10 Longspine thornyhead</b>		9,000 lb/ 2 months		
<b>11 Shortspine thornyhead</b>		2,000 lb/ 2 months		
<b>12 Dover sole</b>		5,000 lb/ month		
<b>13 Arrowtooth flounder</b>		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.		
<b>14 Petrale sole</b>				
<b>15 Rex sole</b>				
<b>16 All other flatfish<sup>2/</sup></b>				
<b>17 Whiting<sup>3/</sup></b>		10,000 lb/ trip		
<b>18 Minor shelf rockfish, widow, and yellowtail rockfish<sup>4/</sup></b>		250 lb/ 2 months	200 lb/ 2 months	100 lb/ 2 months
<b>19 Canary rockfish</b>		CLOSED <sup>5/</sup>		
<b>20 Yelloweye rockfish</b>		CLOSED <sup>5/</sup>		
<b>21 Cowcod</b>		CLOSED <sup>5/</sup>		
<b>22 Bocaccio</b>		CLOSED <sup>5/</sup>		
<b>23 Minor nearshore rockfish</b>				
<b>24</b> Shallow nearshore		400 lb/ 2 months	300 lb/ 2 months	200 lb/ 2 months
<b>25</b> Deeper nearshore		500 lb/ 2 months	300 lb/ 2 months	200 lb/ 2 months
<b>26</b> California scorpionfish		800 lb/ 2 months	CLOSED <sup>5/</sup>	
<b>27 Lingcod<sup>6/</sup></b>		400 lb/ month, when nearshore open		CLOSED <sup>5/</sup>
<b>28 Other fish<sup>8/</sup></b>		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.**

\* \* \* \* \*

7. On page 11225, in section IV.,  
under C. Trip Limits in the Open Access

Fishery, Table 5 (South) is revised to  
read as follows:

**Table 5 (South). 2003 Trip Limits for Open Access Gears South of 40°10' N. Latitude<sup>1/</sup>**

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

effective 9/1/03

		JUL-AUG	SEP-OCT	NOV-DEC
<b>Rockfish Conservation Area<sup>7/</sup> (RCA):</b>				
40°10' - 34°27' N. lat.		20 fm - 150 fm		
South of 34°27' N. lat.		20 fm - 150 fm (also applies around islands) (See footnote 8 for description of Pt. Fermin/Newport South Jetty open area)	30 fm - 150 fm (also applies around islands)	
<b>1</b>	<b>Minor slope rockfish<sup>2/</sup></b>			
<b>2</b>	40°10' - 38° N. lat.	Per trip, no more than 25% of weight of the sablefish landed		
<b>3</b>	South of 38° N. lat.	10,000 lb/ 2 months		
<b>4</b>	<b>Splitnose</b>	200 lb/ month		
<b>5</b>	<b>Sablefish</b>			
<b>6</b>	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		
<b>7</b>	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb		
<b>8</b>	<b>Thornyheads</b>			
<b>9</b>	40°10' - 34°27' N. lat.	CLOSED <sup>5/</sup>		
<b>10</b>	South of 34°27' N. lat.	50 lb/ day, no more than 2,000 lb/ 2 months		
<b>11</b>	<b>Dover sole</b>	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.		
<b>12</b>	<b>Arrowtooth flounder</b>			
<b>13</b>	<b>Petrals sole</b>			
<b>14</b>	<b>Rex sole</b>			
<b>15</b>	<b>All other flatfish<sup>3/</sup></b>			
<b>16</b>	<b>Whiting</b>	300 lb/ month		
<b>17</b>	<b>Minor shelf rockfish, widow and chilipepper rockfish<sup>2/</sup></b>	250 lb/ 2 months	200 lb/ 2 months	100 lb/ 2 months
<b>18</b>	<b>Canary rockfish</b>	CLOSED <sup>5/</sup>		
<b>19</b>	<b>Yelloweye rockfish</b>	CLOSED <sup>5/</sup>		
<b>20</b>	<b>Cowcod</b>	CLOSED <sup>5/</sup>		
<b>21</b>	<b>Bocaccio</b>	CLOSED <sup>5/</sup>		

Table 5 (South) continued

22	<b>Minor nearshore rockfish</b>			
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 <sup>5/</sup>	
26	Lingcod <sup>4/</sup>	300 lb/ month, when nearshore open		CLOSED <sup>5/</sup>
27	<b>Other Fish</b> <sup>6/</sup>	Not limited		
28	<b>PINK SHRIMP EXEMPTED TRAWL GEAR</b> (not subject to RCAs)			
29	South	<p><b>Effective April 1 - October 31, 2003:</b> 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.</p>		
30	<b>PRAWN AND, SOUTH OF 38°57'30" N. LAT., CALIFORNIA HALIBUT AND SEA CUCUMBER EXEMPTED TRAWL</b>			
31	<b>EXEMPTED TRAWL Rockfish Conservation Area<sup>7/</sup> (RCA):</b>			
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		<p>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.)</p>		

Table 5 (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/ 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.

BILLING CODE 3510-22-C

\* \* \* \* \*

8. On page 11227, in section IV., under D. Recreational Fishery, paragraph (3)(b)(i)(B) is revised and paragraph (3)(b)(i)(C) is added to read as follows:

\* \* \* \* \*

(3) \* \* \*

(b) \* \* \*

(i) *Closed Areas.*—\* \* \*

(B) *Between 40°10' N. lat. and 34°27' N. lat.*, recreational fishing for all groundfish, including lingcod, is prohibited seaward of the 20-fm (37-m) depth contour, except that recreational fishing for sanddabs is permitted seaward of the 20-fm (37-m) depth contour subject to the provisions in paragraph IV.D.(3)(iv).

(C) *South of 34°27' N. lat.*, recreational fishing for all groundfish, including lingcod, is prohibited seaward of a boundary line approximating the 30-fm (55-m) depth contour along the mainland coast and along islands and offshore seamounts (except in the CCA where fishing is prohibited seaward of the 20-fm (37-m) depth contour in paragraph (A) of this section), except that recreational fishing for sanddabs is permitted seaward of the 30-fm (55-m) depth contour subject to the provisions in paragraph IV.D.(3)(iv). Coordinates for the boundary line approximating the 30-fm (55-m) depth contour are listed in sections IV.A.(19)(e)(xv) through (xvii).

\* \* \* \* \*

9. On page 11227, in section IV., under D. Recreational Fishery, paragraph (3)(b)(ii)(A) is revised and the

second paragraph (3)(b)(ii)(B) is corrected to read (3)(b)(ii)(D) as follows:

\* \* \* \* \*

(3) \* \* \*

(b) \* \* \*

(ii) *RCG Complex.* \* \* \*

(A) *Seasons.* South of 40°10' N. lat., recreational fishing for the RCG Complex is open from July 1 through December 31 (i.e., it's closed from January 1 through June 30). When recreational fishing for the RCG Complex is open, it is permitted only inside the 20-fm (37-m) depth contour between 40°10' N. lat. and 34°27' N. lat. and inside a boundary line approximating the 30-fm (55-m) depth contour south of 34°27' N. lat., subject to the bag limits in paragraph (B) of this section. Coordinates for the boundary line approximating the 30-fm (55-m) depth contour are listed in sections IV.A.(19)(e)(xv) through (xvii).

\* \* \* \* \*

10. On page 11227, in section IV., under D. Recreational Fishery, paragraphs (3)(b)(iii)(A) and (3)(b)(iv)(A) are revised and the second paragraph (3)(b)(iv) is corrected to read (3)(b)(v) and is revised as follows:

\* \* \* \* \*

(3) \* \* \*

(b) \* \* \*

(iii) *California scorpionfish.* \* \* \*

(A) *Seasons.* South of 40°10' N. lat., recreational fishing for California scorpionfish is closed from March 1 through June 30 (i.e., the California scorpionfish season is open during January-February and during July-December). When recreational fishing for California scorpionfish is open, it is

permitted only inside the 20-fm (37-m) depth contour between 40°10' N. lat. and 34°27' N. lat., subject to the bag limits in paragraph (B) of this section. South of 34°27' N. lat., when recreational fishing for California scorpionfish is open, it is permitted only inside a boundary line approximating the 30-fm (55-m) depth contour (except at Huntington Flats 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.)) recreational fishing for California scorpionfish may occur from shore to a boundary line approximating 50-fm (91-m) during July-August, subject to the bag limits in paragraph (B) of this section. Coordinates for the boundary line approximating the 30-fm (55-m) depth contour are listed in sections IV.A.(19)(e)(xv) through (xvii).

\* \* \* \* \*

(iv) *Lingcod.*—(A) *Seasons.* South of 40°10' N. lat., recreational fishing for lingcod is open July 1 through December 31. When recreational fishing for lingcod is open in the south, it is permitted only inside the 20-fm (37-m) depth contour between 40°10' N. lat. and 34°27' N. lat. and inside a boundary line approximating the 30-fm (55-m) depth contour south of 34°27' N. lat., subject to the bag limits in paragraph (B) of this section. Coordinates for the boundary line approximating the 30-fm (55-m) depth contour are listed in sections IV.A.(19)(e)(xv) through (xvii).

\* \* \* \* \*

(v) *Sanddabs*. South of 40°10' N. lat., recreational fishing for sanddabs is permitted both inshore of and within the closed areas, (i.e., recreational fishing for sanddabs is permitted in all areas south of 40°10' N. lat.). Recreational fishing for sanddabs is permitted seaward of the 20-fm (37-m) depth contour between 40°10' N. lat. and 34°27' N. lat. and seaward of a boundary line approximating the 30-fm (55-m) depth contour south of 34°27' N. lat., subject to a limit of up to 12-hooks, "Number 2" or smaller, which measure 11 mm (0.44 inches) point to shank, and up to 2 lb (0.91 kg) of weight per line. There is no bag limit, season, or size limit for sanddabs, however, it is prohibited to fillet sanddabs at sea.

\* \* \* \* \*

#### Classification

These actions are authorized by the Magnuson-Stevens Act, and are based on the most recent data available. The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, Northwest Region, NMFS, (see **ADDRESSES**) during business hours.

The Assistant Administrator for Fisheries (AA), NMFS, finds good cause to waive the requirement to provide prior notice and opportunity for public comment on this action pursuant to 5 U.S.C. 553(b)(3)(B), because providing prior notice and opportunity for comment would be impracticable. It would be impracticable because the next cumulative trip limit period for the Pacific Coast groundfish fishery begins September 1, 2003, and affording prior notice and opportunity for public comment would delay implementation of this action to after the start of the cumulative limit period. The Pacific Coast groundfish commercial fishery is managed by trip limits and area closures, most of which are based on a 2-month cumulative period (January-February, March-April, May-June, July-August, September-October, November-December). If this action is not implemented by the beginning of the next cumulative trip limit period (September 1, 2003), fishers would be unnecessarily restricted from accessing the increased area available to fishing in southern California. In addition, data for management in both the commercial and recreational fisheries lines up with these 2 month cumulative periods. If management actions are changed during a cumulative limit period, it may complicate analysis of the data by making it more difficult to determine how management measures influence data results.

There was not adequate time between when new scientific information became available for decision-making and when drafting and reviewing the regulatory package, including the environmental analysis, was complete for prior notice and opportunity for public comment. The new stock assessment for bocaccio, showing an increased biomass and higher recruitment than previously predicted, was released in May 2003. This new scientific information was then presented to the Pacific Council as a tool for decision-making at their June 16-20, 2003 meeting in Foster City, CA. While new stock assessments are generally reserved for setting the harvest levels for the following annual management cycle, 2004 in this case, the Pacific Council recommended the new information on the status of bocaccio be used for inseason management of the fishery in 2003. In 2003, groundfish fisheries coastwide have been severely restricted by large areas closed to fishing. The Pacific Council, at its June meeting, decided to use the new information on bocaccio to provide some relief to the commercial non-trawl and recreational fisheries in southern California by moving the boundary line from 20-fm (37-m) to 30-fm (55-m) south of 34°27' N. lat. to the U.S./Mexico border. Moving the boundary line in this area made additional area in the ocean available for fishing. Because this new management measure recommended by the Pacific Council had not been previously analyzed in an environmental assessment, as required under the National Environmental Policy Act to determine potential impacts to the environment, an EA/RIR was prepared for this action following the June Council meeting. In addition to developing further data for analysis for the EA/RIR after the June Council meeting, CDFG had to develop coordinates approximating the 30-fm (55-m) depth contour. Between the approximately 2 months from the Pacific Council meeting decision to implementation of the recommendation, there was a tight time schedule to gather further information and complete the EA/RIR and regulatory package that did not allow for adequate time for prior notice and opportunity for comment.

Moving the boundary line will relieve restrictions by opening an area that was previously closed, thereby providing greater harvest opportunities than were previously scheduled for the remainder of the year. Thus, they are not subject to a 30-day delay in effectiveness under 5 U.S.C. 553(d)(1).

The AA also finds good cause to waive the requirement to provide prior notice and opportunity for public comment on this correction<sup>1</sup> pursuant to 5 U.S.C. 553(b)(3)(B), because providing prior notice and opportunity for comment would be impracticable. It would be impracticable because the next cumulative trip limit period for the Pacific Coast groundfish fishery begins on September 1, 2003, and affording prior notice and opportunity for public comment would result in revisions to an RCA boundary in the middle of a cumulative limit period. Revising an RCA boundary in the middle of a cumulative limit period makes that boundary more difficult to understand for the public and for enforcement agents, ultimately impeding the agency's function of managing fisheries to approach without exceeding the OYs for federally managed species. Because the Pacific Coast groundfish fishery is managed by trip limits and area closures, most of which are based on a 2-month cumulative period (January-February, March-April, May-June, July-August, September-October, November-December), this correction should be implemented by the beginning of the next cumulative trip limit period (September 1, 2003) to prevent confusion amidst the public. The corrections in this rule will allow the groundfish trawl fleet to fish in areas that would otherwise be closed. Accordingly, the corrections relieve a restriction, and therefore, pursuant to 5 U.S.C. 553(d)(1), this rule is not subject to a 30 day delay in effectiveness. These actions are taken under the authority of 50 CFR 660.323(b)(1).

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

This emergency rule is exempt from the procedures of the Regulatory Flexibility Act because this rule is

<sup>1</sup> In addition to the changes described earlier for the emergency rule, this action would correct the 200-fm (366-m) depth contour coastwide RCA boundary to ensure that the series of coordinates describing that contour are better aligned to the actual 200-fm depth contour. This action would also clarify in the trip limit tables that RCA boundaries apply to fishing occurring in waters surrounding islands off California, and it would clarify which islands and seamounts belong to what island groups referenced in the regulations. At present, portions of the 200-fm (366-m) depth contour coordinates are more closely aligned with the 300-fm (549-m) depth contour, placing an unnecessary restriction on fishery participants. The trip limit table clarification is needed to ensure that the regulations are better understood by the public, and to better protect overfished species as soon as possible. The clarification of which islands and seamounts belong to what island groups referenced in the regulations is a minor correction to existing regulations (essentially a housekeeping change) and has no effect on the fisheries.

issued without opportunity for prior public notice and comment.

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

**Dated:** August 29, 2003.

**Rebecca Lent,**

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

[FR Doc. 03-22669 Filed 9-2-03; 4:58 pm]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 021122286-3036-02; I.D. 082803D]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 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 pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the C season allowance of the pollock total allowable catch (TAC) for Statistical Area 610 of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), August 30, 2003, through 1200 hrs, A.l.t., September 15, 2003.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 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 C season allowance of the pollock TAC in Statistical Area 610 of the GOA is 5,500 metric tons (mt) as established by the final 2003 harvest specifications for groundfish of the GOA (68 FR 9924, March 3, 2003). In accordance with § 679.20(a)(5)(iii)(B), the Administrator, Alaska Region, NMFS, (Regional Administrator) hereby increases the C season pollock TAC by 6 mt, the amount of the A and B season pollock allowance in Statistical Area 610 that was not

previously taken in the A and B seasons and split equally between the C and D seasons. The revised C season allowance of pollock TAC in Statistical Area 610 is therefore 5,506 mt (5,500 mt plus 6 mt).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the revised C season allowance of the pollock TAC in Statistical Area 610 has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 5,456 mt, and is setting aside the remaining 50 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 pollock in Statistical Area 610 of the GOA.

Maximum retainable amounts may be found in the regulations at § 679.20(e) and (f).

#### 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 C season TAC in Statistical Area 610, 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:** August 28, 2003.

**John H. Dunnigan,**

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

[FR Doc. 03-22562 Filed 8-29-03; 3:25 pm]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 021122286-3036-02; I.D. 082803B]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 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 pollock in Statistical Area 620 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the C season allowance of the pollock total allowable catch (TAC) for Statistical Area 620 of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), August 30, 2003, through 1200 hrs, A.l.t., September 15, 2003.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 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 C season allowance of the pollock TAC in Statistical Area 620 of the GOA is 2,686 metric tons (mt) as established by the final 2003 harvest specifications for groundfish of the GOA (68 FR 9924, March 3, 2003). In accordance with § 679.20(a)(5)(iii)(B), the Administrator, Alaska Region, NMFS, (Regional Administrator) hereby reduces the C season pollock TAC by 820 mt, the amount of harvest previously taken in excess of the A and B season pollock allowances in Statistical Area 620 and split equally between the C and D seasons. The revised C season allowance of pollock TAC in Statistical Area 620 is therefore 1,866 mt (2,686 mt minus 820 mt).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the revised C season allowance of the pollock TAC in Statistical Area 620 has been reached. Therefore, the Regional Administrator is

establishing a directed fishing allowance of 1,816 mt, and is setting aside the remaining 50 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 pollock in Statistical Area 620 of the GOA.

Maximum retainable amounts may be found in the regulations at § 679.20(e) and (f).

#### **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 C season allowance of the pollock TAC in Statistical Area 620, 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: August 28, 2003.

**Richard W. Surdi,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 03-22561 Filed 8-29-03; 3:25 pm]

**BILLING CODE 3510-22-M**

# Proposed Rules

Federal Register

Vol. 68, No. 172

Friday, September 5, 2003

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003-NE-34-AD]

RIN 2120-AA64

#### Airworthiness Directives; Pratt & Whitney JT9D-3A, -7, -7A, -7AH, -7H, -7F, -7J, -20, and -20J Turbofan Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for Pratt & Whitney (PW) JT9D-3A, -7, -7A, -7AH, -7H, -7F, -7J, -20, and -20J turbofan engines. This proposed AD would clarify a life limit for certain part numbers of 6th stage low pressure turbine (LPT) air seals, and require their removal from service before accumulating 15,000 cycles-since-new (CSN). This proposed AD is prompted by reports of certain 6th stage LPT air seals possibly not being life tracked due to confusion from updates to the engine manuals. We are proposing this AD to prevent failure of the 6th stage LPT air seal, which could cause LPT damage resulting in an uncontained engine failure.

**DATES:** We must receive any comments on this proposed AD by November 4, 2003.

**ADDRESSES:** Use one of the following addresses to submit comments on this proposed AD:

- By mail: Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003-NE-34-AD, 12 New England Executive Park, Burlington, MA 01803-5299.
- By fax: (781) 238-7055.
- By e-mail: [9-ane-adcomment@faa.gov](mailto:9-ane-adcomment@faa.gov).

You can get the service information identified in this proposed AD from

Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565-8770; fax (860) 565-4503.

You may examine the AD docket at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

**FOR FURTHER INFORMATION CONTACT:**

Keith Lardie, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (781) 238-7189; fax (781) 238-7199.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "AD Docket No. 2003-NE-34-AD" in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. If a person contacts us verbally, and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You may get more information about plain language at <http://www.faa.gov/language> and <http://www.plainlanguage.gov>.

**Examining the AD Docket**

You may examine the AD Docket (including any comments and service information), by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. See **ADDRESSES** for the location.

**Discussion**

The FAA has recently been made aware that the life limit for 6th stage

LPT air seals, part numbers (P/Ns) 808846, 809171, 811260 and 811261, may not be clearly stated in Chapter 5 of the engine manuals. Proper life tracking of these parts is required to ensure safe operation of engines, but because of changes to the engine manuals some operators may have believed that some 6th stage LPT air seals may not require life tracking. This condition, if not corrected, could result in failure of the 6th stage LPT air seal, which could cause LPT damage resulting in an uncontained engine failure.

**Relevant Service Information**

We have reviewed and approved the technical contents of PW Service Bulletin No. JT9D 6448, dated June 10, 2003, that describes procedures for calculating 6th stage LPT air seal part life for air seals that have not been previously life tracked.

**FAA's Determination and Requirements of the Proposed AD**

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. Therefore, we are proposing this AD, which would clarify the life limit for 6th stage LPT air seals, P/Ns 808846, 809171, 811260, and 811261, and require their removal from service before accumulating 15,000 CSN. The proposed AD would require you to use the service information described previously for calculating 6th stage LPT air seal part life for parts that have not been previously life tracked.

**Changes to 14 CFR Part 39—Effect on the Proposed AD**

On July 10, 2002, we published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

**Costs of Compliance**

There are about 1,024 engines of the affected design in the worldwide fleet. We estimate that 367 engines installed on airplanes of U.S. registry would be affected by this proposed AD. We also

estimate that it would take approximately 0.5 work hour per engine to calculate the 6th stage LPT air seal part life, and that the average labor rate is \$65 per work hour. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be \$11,928.

**Regulatory Findings**

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a “significant regulatory action” under Executive Order 12866;
2. Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this proposal and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include “AD Docket No. 2003-NE-34-AD” in your request.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

**PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. The FAA amends § 39.13 by adding the following new airworthiness directive:

**Pratt & Whitney:** Docket No. 2003-NE-34-AD.

**Comments Due Date**

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by November 4, 2003.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Pratt & Whitney (PW) JT9D-3A, -7, -7A, -7AH, -7H, -7F, -7J, -20, and -20J turbofan engines. These engines are installed on, but not limited to, Boeing 747-100, 747-200, 747SR, 747SP, and DC10-40 series airplanes.

**Unsafe Condition**

(d) This proposed AD is prompted by reports of certain 6th stage low pressure turbine (LPT) air seals possibly not being life tracked due to confusion from updates to the engine manuals. Chapter 5 of Engine Manuals part numbers (P/Ns) 646028, 770407, and 770408 will be revised to show a life limit of 15,000 cycles-since-new (CSN) for 6th stage air seal P/N’s 808846, 809171, 811260 and 811261. We are issuing this AD to prevent failure of the 6th stage LPT air seal which could cause LPT damage, resulting in an uncontained engine failure.

**Compliance**

(e) You are responsible for having the actions required by this AD performed within the compliance times specified unless the actions have already been done.

**Determine Service Life**

(f) For 6th stage LPT air seals, P/Ns 808846, 809171, 811260, and 811261, with an unknown number of cycles since installed, calculate the service life within 60 days after the effective date of this AD.

(1) Use Method 1 of the Accomplishment Instructions of PW Service Bulletin (SB) No. JT9D 6448, dated June 10, 2003, for when all service records are available for the specific air seal, to calculate the service life.

(2) Use Method 2 of the Accomplishment Instructions of PW SB No. JT9D 6448, dated June 10, 2003, for when any or all service records are not available for a specific air seal, to calculate the service life. If the worst-case daily utilization rate is unknown, use the fleet worst-case daily utilization rate of 2.9 cycles/day.

**Removal From Service**

(g) Remove 6th stage LPT air seals, P/Ns 808846, 809171, 811260, and 811261, from service at or before accumulating the CSN in the following Table 1.

TABLE 1.—PART NUMBER AND ENGINE APPLICABILITY

Part No.	Engine applicability	Life limit CSN
808846 (old)	JT9D-3A, -7, -7A, -7AH, -7H, -7F, -7J, -20, -20J	15,000
811260 (new)	JT9D-3A, -7, -7A, -7AH, -7H, -7F, -7J, -20, -20J	15,000
809171 (old)	JT9D-3A, -7, -7A, -7AH, -7H, -7F, -20	15,000
811261 (new)	JT9D-3A, -7, -7A, -7AH, -7H, -7F, -20	15,000

(h) If the service life cannot be determined as specified in paragraph (f) of this AD, remove the 6th stage LPT air seal before accumulating 2,500 cycles-in-service after the effective date of this AD.

(i) After the effective date of this AD, do not install any 6th stage LPT air seal, P/N 808846, 809171, 811260, or 811261, that exceeds 15,000 CSN, or that was removed to comply with paragraph (h) of this AD because its service life could not be determined.

**Alternative Methods of Compliance**

(j) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this

AD if requested using the procedures found in 14 CFR 39.19.

**Material Incorporated by Reference**

(k) You must use Pratt & Whitney Service Bulletin No. JT9D 6448, dated June 10, 2003, to perform the service life calculations required by this AD. Approval of incorporation by reference from the Office of the Federal Register is pending.

**Related Information**

(l) None.

Issued in Burlington, Massachusetts, on August 28, 2003.

**Jay J. Pardee,**

*Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 03-22621 Filed 9-4-03; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF DEFENSE****Office of the Secretary****32 CFR Part 199**

RIN 0720-AA86

**Coordination of Benefits Between TRICARE and the Department of Veterans Affairs**

AGENCY: Department of Defense.

ACTION: Withdrawal; correction.

**SUMMARY:** The Department of Defense published a withdrawal of a final rule (68 FR 51705, August 28, 2003) on Coordination of Benefits Between TRICARE and the Department of Veterans Affairs (68 FR 49732, August 19, 2003). This document is published to correct the status of that rule as a "proposed" rule. All other information remains unchanged.

**DATES:** The correction effective September 5, 2003.

**FOR FURTHER INFORMATION CONTACT:** L.M. Bynum, 703-601-4722 ext. 109.

Dated: August 21, 2003.

L.M. Bynum,

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

[FR Doc. 03-22588 Filed 9-4-03; 8:45 am]

**BILLING CODE 5001-08-M**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[CGD13-03-027]

RIN 1625-AA09

**Drawbridge Operation Regulations; Columbia River, OR**

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to temporarily change the operating regulations of the dual vertical lift bridges on Interstate Highway 5 across the Columbia River, mile 106.5, between Portland, OR and Vancouver, WA to accommodate a major rehabilitation of the mechanical and electrical systems of the bridges. From July 15, 2004, to August 6, 2004, the lift spans would be closed and from August 6, 2004, to October 15, 2004, the draws would open for the passage of vessels once every two weeks according to an established schedule. The affected period approximates the annual season of low

water on the Columbia when the maximum vertical clearance will be available.

**DATES:** Comments and related material must reach the Coast Guard on or before October 20, 2003.

**ADDRESSES:** You may mail comments and related material to Commander (oan), 13th Coast Guard District, 915 Second Avenue, Seattle, WA 98174-1067 where the public docket for this rulemaking is maintained. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Aids to Navigation and Waterways Management Branch between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Austin Pratt, Chief Bridge Section, (206) 220-7282.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD13-03-027], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

An abbreviated comment period is in effect for this proposal in order to expedite processing. This will allow the bridge owner to advertise the project for bidding with adequate lead-time and as described by the limits to the project set by the temporary rule promulgated in the light of comments received.

**Public Meeting**

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

**Background and Purpose**

The proposed temporary rule would enable the bridge owners to conduct a major rehabilitation project during the part of the year when water levels are typically low enough that most vessels do not need the drawspans to open for their passage. The seven million dollar project would completely replace the existing 1959 electrical system in both bridges and the 1916 gears in the northbound drawbridge. In addition, the operating control center would be rebuilt with improved visibility and new television cameras. During the first three weeks of the period, the dual lifts would remain in the down position to facilitate gear replacement. Thereafter, openings would be provided once every two weeks, if needed, until the end of the temporary period. Historically, water levels on the Columbia River fluctuate significantly over the course of an annual cycle. Essentially, water levels are dependent on the accumulation of snow in the winter and its melting in the spring and early summer. The annual dry season in the Pacific Northwest is typically from approximately July 15 to October 15. Usually rainfall begins to raise water levels again after October 15.

A river elevation of 6.0 feet Columbia River Datum (CRD) is the critical point for towboats on the Columbia River at and upstream of the bridges. Cargo towing is the main commercial use of the Columbia above the bridges. Large oceangoing vessels do not generally pass above these bridges. The towboats that ply that portion of the Columbia require 52 feet of vertical clearance. Most towing vessels and passenger tour vessels are able to pass through the highest fixed spans near midstream without requiring the vertical lift spans near the north shore to open when the river level is six feet or less.

The exceptions are the tallest sailboats, some construction derricks, and large structures that have been built upstream of the bridges at shore facilities. With the exception of the first three weeks of the affected period when the draws need not open, an opening will be provided every two weeks. During summer months the openings average less than one per day, mostly for sailboats, some of which could pass the higher fixed spans if antennas were lowered.

**Discussion of Proposed Rule**

The established operating regulation for the Interstate 5 bridges requires that the draws open on signal except that they need not open from 6:30 a.m. to 9 a.m. and from 2:30 p.m. to 6 p.m.

Monday through Friday except federal holidays. Certain exceptions are made for commercial vessels depending upon the river gauge.

The proposed temporary rule would authorize a continuous closure of the draws from 6:30 a.m. July 15 to 9 p.m. August 6, 2004. On August 6 and 20, September 3 and 17 and October 1, 2004, openings will be provided on signal at 9 p.m. Openings need not be provided at times other than these from August 6 until 9 p.m. October 15. In the event that the river runs at 6 feet Columbia River datum or higher between 9 p.m. on August 6 and 9 p.m. October 15, 2004, or the date the drawbridges are restored to normal operation, the bridge owners would provide an assist tug to commercial tows when requested by the towing vessel master for safe passage through the bridges. For downbound tows, this assist boat may be retained until a tow has safely passed the Burlington Northern Santa Fe swing span 0.8 mile downstream of the dual highway bridges. The master of the vessel would inform the draw tender prior to arrival at the I-5 bridges whenever an assist boat is to be used.

#### Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

We do expect recreational sailboats to be affected by this temporary rule. This class of vessel most commonly requires openings of the subject drawbridges during the summer months. Some of these vessels will either have to find alternate moorage or otherwise be limited in their operating areas during the project. Others will be able to modify their top hamper by lowering antennas, instruments, masts, etc., in order to pass the bridge if the biweekly scheduled openings do not serve their needs. These vessel operators will receive notice of several months duration to plan their activities for summer 2004.

#### Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. We expect that some recreational sailboat owners will be affected by this proposal. Most other vessels will either not require openings of the draws during low water season or will be accommodated by the biweekly scheduled openings. Some sail boaters will have to change their moorage and itineraries or modify their vessels to avoid delays.

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

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Austin Pratt, Chief, Bridge Section at (206) 220–7282.

#### Collection of Information

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

#### Federalism

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

#### Unfunded Mandates Reform Act

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

#### Taking of Private Property

This proposed rule would not affect 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 proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

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

#### Indian Tribal Governments

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

#### Energy Effects

We have analyzed this proposed 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 rule under Commandant Instruction M16475.ID, 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 (32)(e) of the Instruction, from further environmental documentation. There are no expected environmental consequences of the proposed action that would require further analysis and documentation.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

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

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub.L. 102–587, 106 Stat. 5039.

2. From 6:30 a.m. on July 15, 2004, until 9 p.m. on October 15, 2004, in § 117.869, suspend paragraph (a) and add a new paragraph (d) to read as follows:

#### § 117.869 Columbia River.

\* \* \* \* \*

(d) The draws of the Interstate 5 Bridges, mile 106.5, between Portland, OR, and Vancouver, WA, need not open for the passage of vessels from 6:30 a.m. on July 15, 2004, to 9 p.m. on August 6, 2004, and at no other time until 9 p.m. on October 15 except for scheduled openings on signal at 9 p.m. on August 6 and 20 and September 3 and 17 and October 1, 2004.

Dated: August 21, 2003.

**Jeffrey M. Garrett,**

*Rear Admiral, Coast Guard Commander,  
Thirteenth Coast Guard District.*

[FR Doc. 03–22564 Filed 9–4–03; 8:45 am]

BILLING CODE 4910–15–P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 70

[NE 190–1190; FRL–7553–1]

#### Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Nebraska

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve a revision to the Nebraska State Implementation Plan (SIP) and Operating Permits Program. On September 5, 2002, the state updated its air program construction and operating permitting rules, its definitions rule, and emission inventory reporting rule. Approval of these revisions will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's revised air program rules.

**DATES:** Comments on this proposed action must be received in writing by October 6, 2003.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Electronic comments should be sent either to Wayne Kaiser at [kaiser.wayne@epa.gov](mailto:kaiser.wayne@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in “What action is EPA taking” in the **SUPPLEMENTARY INFORMATION** section of the direct final rule which is located in the rules section of the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551–7603 or by e-mail at [kaiser.wayne@epa.gov](mailto:kaiser.wayne@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all

public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: August 22, 2003.

**Cecilia Tapia,**

*Acting Regional Administrator, Region 7.*

[FR Doc. 03–22540 Filed 9–4–03; 8:45 am]

BILLING CODE 6560–50–P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 194

[FRL–7553–2]

#### Central Characterization Project Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From the Hanford Site Proposed for Disposal at the Waste Isolation Pilot Plant

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of availability; opening of public comment period.

**SUMMARY:** The Environmental Protection Agency (EPA, or “we”) is announcing an inspection for the week of September 8, 2003, at the Hanford Site in Washington. With this action, we also announce availability of Department of Energy (DOE) documents in the EPA Docket, and solicit public comments on the documents available in the docket for a period of 30 days. The following DOE documents, entitled “CCP–PO–001—Revision 6, 6/11/03—CCP Transuranic Waste Characterization Quality Assurance Project Plan” and “CCP–PO–002—Revision 6, 6/11/03—CCP Transuranic Waste Certification Plan,” are available for review in the public dockets listed in **ADDRESSES**. We will consider public comments received on or before the due date mentioned in **DATES**. In accordance with EPA's WIPP Compliance Criteria, we will conduct an inspection of the Central Characterization Project (CCP) at Hanford to verify that, using the systems and processes developed as part of the DOE Carlsbad Office's CCP, DOE can

characterize TRU waste consistent with the Compliance Criteria.

**DATES:** EPA is requesting public comment on the documents. Comments must be received by EPA's official Air Docket on or before October 6, 2003.

**ADDRESSES:** Comments may be submitted by mail to: EPA Docket Center (EPA/DC), Air and Radiation Docket, Environmental Protection Agency, EPA West, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. OAR-2003-0144. Comments may also be submitted electronically, by facsimile, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I.B of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ed Feltcorn, Office of Radiation and Indoor Air, (202) 564-9422. You can also call EPA's toll-free WIPP Information Line, 1-800-331-WIPP or visit our website at <http://www.epa.gov/radiation/wipp>.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. 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 ID No. OAR-2003-0144. 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 Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742. These documents are also available for review in paper form at the official EPA Air Docket in Washington, DC, Docket No. A-98-49, Category II-A2, and at the following three EPA WIPP informational docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Monday-Thursday, 10 a.m.-9

p.m., Friday-Saturday, 10 a.m.-6 p.m., and Sunday 1 p.m.-5 p.m.; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: vary by semester; and in Santa Fe at the New Mexico State Library, Hours: Monday-Friday, 9 a.m.-5 p.m. As provided in EPA's regulations at 40 CFR part 2, and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification 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. 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.

For additional information about EPA's electronic public docket visit EPA Dockets online or see 67 FR 38102, May 31, 2002.

*B. How and to Whom Do I Submit Comments?*

You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification 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. However, late comments may be considered if time permits.

1. *Electronically.* If you submit an electronic comment as prescribed below, 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. To access EPA's electronic public docket from the EPA Internet Home Page, select "Information Sources," "Dockets," and "EPA Dockets." Once in the system, select "search," and then key in Docket ID No. OAR-2003-0144. 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 electronic mail (e-mail) to [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov), Attention Docket ID No. OAR-2003-0144. 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.

*2. By Mail.* Send your comments to: EPA Docket Center (EPA/DC), Air and Radiation Docket, Environmental Protection Agency, EPA West, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. OAR-2003-0144.

*3. By Hand Delivery or Courier.* Deliver your comments to: Air and Radiation Docket, EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. OAR-2003-0144. Such deliveries are only accepted during the Docket's normal hours of operation as identified in Unit I.A.1.

*4. By Facsimile.* Fax your comments to: (202) 566-1741, Attention Docket ID. No. OAR-2003-0144.

### *C. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

## **II. Background**

DOE is operating the WIPP near Carlsbad in southeastern New Mexico as a deep geologic repository for disposal of TRU radioactive waste. As defined by the WIPP Land Withdrawal Act (LWA) of 1992 (Pub. L. 102-579), as amended (Pub. L. 104-201), transuranic (TRU) waste consists of materials containing elements having atomic numbers greater than 92 (with half-lives greater than twenty years), in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste. Much of the existing TRU waste consists of items contaminated during the production of nuclear weapons, such as rags, equipment, tools, and sludges.

On May 13, 1998, EPA announced its final compliance certification decision to the Secretary of Energy (published May 18, 1998, 63 FR 27354). This decision stated that the WIPP will comply with EPA's radioactive waste disposal regulations at 40 CFR part 191, subparts B and C.

The final WIPP certification decision includes conditions that (1) Prohibit shipment of TRU waste for disposal at WIPP from any site other than the Los Alamos National Laboratory (LANL) until the EPA determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3), and 194.24(c)(5) for waste characterization activities and assumptions (Condition 2 of appendix A to 40 CFR part 194); and (2) prohibit shipment of TRU waste for disposal at WIPP from any site other than LANL until the EPA has approved the procedures developed to comply with the waste characterization requirements of § 194.22(c)(4) (Condition 3 of appendix A to 40 CFR part 194). The EPA's approval process for waste generator sites is described in

§ 194.8. As part of EPA's decision-making process, the DOE is required to submit to EPA appropriate documentation of quality assurance and waste characterization programs at each DOE waste generator site seeking approval for shipment of TRU radioactive waste to WIPP. In accordance with § 194.8, EPA will place such documentation in the official Air Docket in Washington, D.C., and informational dockets in the State of New Mexico for public review and comment.

EPA will perform an inspection of the TRU waste characterization activities performed by the DOE's Central Characterization Project (CCP) staff at the Hanford Site in accordance with Condition 3 of the WIPP certification. The CCP is a mobile characterization facility that DOE is developing to assist small TRU waste generator sites with complex waste characterization activities. We will evaluate the adequacy, implementation, and effectiveness of the CCP technical activities contracted by Hanford for characterization of the disposal of retrievably-stored debris waste at the WIPP. The overall program adequacy and effectiveness of CCP/Hanford documents will be based on the following DOE-provided documents: (1) CCP-PO-001—Revision 6, 6/11/03—CCP Transuranic Waste Characterization Quality Assurance Project Plan and (2) CCP-PO-002—Revision 6, 6/11/03—CCP Transuranic Waste Certification Plan. EPA has placed these DOE-provided documents pertinent to the Hanford inspection in the public docket described in **ADDRESSES**. They can be found online in EDOCKET ID No. OAR-2003-0144 and also in hard copy form as item II-A2-47 in Docket A-98-49. In accordance with 40 CFR 194.8, EPA is providing the public 30 days to comment on these documents. The inspection is scheduled to take place the week of September 8, 2003.

EPA will inspect the following technical elements for characterizing retrievably-stored TRU debris and solid waste: data validation and verification, acceptable knowledge (AK), nondestructive assay (NDA-WIT and APNEA), Digital Radiography/Computed Tomography, visual examination (VE), and data tracking and reporting via the WIPP Waste Information System (WWIS).

If EPA determines as a result of the inspection that the proposed CCP waste characterization processes and programs used at Hanford adequately control the characterization of transuranic waste, we will notify DOE by letter and place the letter in the official Air Docket in

Washington, DC, as well as in the informational docket locations in New Mexico. A letter of approval will allow DOE to ship transuranic waste from Hanford to the WIPP. The EPA will not make a determination of compliance prior to the inspection or before the 30-day comment period has closed.

Information on the certification decision is filed in the official EPA Air Docket, Docket No. A-93-02 and is available for review in Washington, DC, and at three EPA WIPP informational docket locations in New Mexico. The dockets in New Mexico contain only major items from the official Air Docket in Washington, DC, plus those documents added to the official Air Docket since the October 1992 enactment of the WIPP LWA.

Dated: August 28, 2003.

**Jeffrey R. Holmstead,**

*Assistant Administrator for Air and Radiation.*

[FR Doc. 03-22638 Filed 9-4-03; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Parts 13 and 21

RIN 1018-A164

#### Migratory Bird Permits; Eiderdown From Iceland

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (we or us) proposes changes in the regulations governing the import into the United States of parts of protected migratory birds. We propose to specify the requirements for importing down of nesting common eiders that breed in Iceland and list the procedures required to harvest, import, possess, and manufacture finished eiderdown products. We are requesting comments on information collection associated with the proposed rule.

**DATES:** Comments on this proposed rule will be accepted through December 4, 2003 to the address below.

Comments on the information collection aspects of this proposed rule will be considered if received by November 4, 2003. The Office of Management and Budget (OMB) has up to 60 days to approve or disapprove information collection but may respond after 30 days. Therefore, to ensure maximum consideration, your

comments should be received by OMB by October 6, 2003.

**ADDRESSES:** You may mail or deliver written comments on this proposal to: RIN 1018-A164, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, MS MBSP 4107, Arlington, Virginia 22203-1610. Alternatively, you may submit your comments via the Internet: [eiderdown@fws.gov](mailto:eiderdown@fws.gov).

You may submit comments on the information collection aspects of the proposed rule to the Desk Officer for the Department of Interior at the Office of Management and Budget, Office of Information and Regulatory Affairs, via facsimile or e-mail using the following fax number and e-mail address: 202/395-6566 (fax);

[OIRA\\_DOCKET@omb.eop.gov](mailto:OIRA_DOCKET@omb.eop.gov) (e-mail). Please provide a copy of your comments to the Fish and Wildlife Service's Information Collection Clearance Officer, 4401 North Fairfax Drive, MS 222 ARLSQ, Arlington, Virginia 22203; 703/358-2269 (fax); or [Anissa\\_Craghead@fws.gov](mailto:Anissa_Craghead@fws.gov) (e-mail).

In your written comments to the Division of Migratory Bird Management, please reference "RIN 1018-A164" at the top of your letter. Include your name and return address. Anonymous comments will not be accepted. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Include your name and return address in your e-mail message. If you do not receive a confirmation that we have received your message, contact us directly at 703/358-1714.

The complete file for this proposed rule, including electronic and written comments received, will be available for public inspection by appointment, during normal business hours at the Division of Migratory Bird Management address listed above. You may call 703/358-1714 to make an appointment to view the files.

**FOR FURTHER INFORMATION CONTACT:** Brian Millsap, Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 703/358-1714.

#### SUPPLEMENTARY INFORMATION:

##### Background

The U.S. Fish and Wildlife Service is the Federal agency with the primary responsibility for managing migratory birds. We propose changes in the regulations governing the import into the United States of parts of protected migratory birds. We propose to specify the requirements for importing down of nesting common eiders that breed in Iceland and list the procedures required

to harvest, import, possess, and manufacture finished eiderdown products. Our authority is based on the Migratory Bird Treaty Act of 1918 (MBTA) (16 U.S.C. 703 *et seq.*), which implements conventions with Great Britain (for Canada), the United Mexican States (=Mexico), Japan, and the Soviet Union (=Russia). Sea ducks including the common eider are afforded Federal protection by the Convention for the Protection of Migratory Birds and Game Animals, February 7, 1936, United States—Mexico; the Convention Between the United States of America and the Union of Soviet Socialist Republics [=Russia] Concerning the Conservation of Migratory Birds and Their Environment, November 26, 1976; and the Protocol Amending the 1916 Convention for the Protection of Migratory Birds, August 2, 1996.

The MBTA requires that any regulations authorizing activities otherwise prohibited by 16 U.S.C. 703 are "[s]ubject to the provisions and in order to carry out the purposes of the conventions." 16 U.S.C. 704. This rule is consistent with each of the applicable treaties. Most importantly, this rule is consistent with the conservation intent of the treaties, as it builds in sufficient safeguards to ensure that the activities it allows will not have a negative impact on the conservation of common eiders or other birds protected by the conventions. It is also consistent with the expressed intent of the parties that migratory birds be conserved, in part, to allow their economic utilization. *See* Canada treaty, Article II ("migratory bird populations shall be managed \* \* \* [t]o ensure a variety of sustainable uses."); Mexico treaty, Article I (migratory birds shall be protected so as to "permit, in so far as the \* \* \* parties may see fit, the utilization of such birds rationally for purposes of sport, food, commerce, and industry"); Japan treaty ("Considering that birds constitute a natural resource of great value for \* \* \* economic purposes, and that this value can be increased with proper management"); Russia treaty ("Considering that migratory birds are a natural resource of great \* \* \* economic \* \* \* value and that this value can be increased under proper management"). This rule is likewise consistent with the particular operative language of each of the conventions.

First, the treaty with Canada (as amended by the 1995 Protocol) prohibits, with some exceptions not relevant here, the sale of "migratory birds, their nests, or eggs." Article II, para. 2. However, this prohibition does

not apply to parts of migratory birds, such as down. The only requirement under the treaty with Canada applicable to parts is the marking requirement of Article VI. *See also* Article II, para. 4(a)(i) (indicating down may be sold without restriction, in contrast to birds and eggs taken by Aboriginal peoples of Canada, which may be sold only within and between Aboriginal communities). Moreover, the only prohibition in the treaty with Canada that relates to import is the prohibition on unlawfully taken birds and eggs, not applicable here. *See* Article VI.

Second, the treaty with Mexico (as amended by the 1997 Protocol) prohibits the sale of products or parts of migratory birds during the close[d] season, and mandates a particular close[d] season for wild ducks (which include common eiders). Article II, paras. A and D. However, exceptions to this prohibition include “when proceeding, with appropriate authorization, from private game farms.” The Icelandic eider farms are “private game farms” within the meaning of this provision. There are no applicable restrictions on import of the eider down, as long as it does not enter the United States via Mexico. *See* Article III.

Third, the treaty with Russia prohibits the sale or importation of the parts or products of protected birds, but allows exceptions to these prohibitions by law or regulation for any “specific purposes not inconsistent with the principles of this Convention.” Article II, para. 1(a). As discussed above, this rule is consistent with the principles of all the treaties, and therefore falls within this broad exception.

Finally, the treaty with Japan, unlike the other three treaties, does not apply to the common eider. *See* Annex to the treaty.

Federal regulations prohibit the commercial use of feathers from migratory birds to prevent the large-scale take of protected birds for profit and to insure the future viability of those species. Under the Act’s implementing regulations found in Title 50, Code of Federal Regulations, migratory birds or their parts, nests, or eggs may not be imported or sold except as permitted under the terms of a valid permit issued pursuant to the provisions of Parts 13, 17, 20, and 21. Current regulations, specifically Sections 20.61 (importation limits), 20.91 (commercial use of feathers), 21.21 (import and export permits), and 21.25 (waterfowl sale and disposal permits) of 50 CFR do not allow the importation of eiderdown. The only migratory bird feathers that can be sold are those taken from

waterfowl that have been legally hunted (Section 20.91) or are captive bred (Section 21.25). The feathers from legally hunted birds can only be fashioned into fishing flies, bed pillows, and mattresses or used for similar commercial items. Feathers may not be used for millinery or ornamental purposes. Captive-bred waterfowl that are properly marked may be sold, but because the feathers of wild-reared common eiders in Iceland cannot meet this marking requirement, individual feathers cannot be sold under current regulations.

The wild, breeding common eider in Iceland is unique among the hundreds of MBTA-protected migratory birds. The hen of the common eider produces a breast down that has exceptional insulating qualities and is naturally shed during nesting to insulate the eggs and hatchlings. While other down from geese (*Anser* and other genera) and ducks (*Anas* genus) may be sold as “eiderdown,” only the down from the common eider is true eiderdown. Common eiders in Iceland have been afforded special protection since 1847 when hunting of this species in Iceland was banned. Icelanders have used eiderdown for over 11 centuries and have exported it since the 14th century. From May to July, Icelanders most frequently collect down twice, initially during the midpoint of incubation when birds are still on the nest, and following hatching after nestlings have left. Some farmers will only make one late-season acquisition, while others make multiple collections. Collectors take great care to avoid disturbing brooding hens, replacing down removed from the nest (15–20 g/nest) with dry grass or hay. Recent studies conducted by the Icelandic Museum of Natural History show no evidence that down collection has a negative impact on the eiders or on their ability to reproduce successfully. Iceland eider farmers actively control resident MBTA-protected birds, including native predatory birds (*e.g.*, black-backed gulls and ravens), native non-predatory birds (*e.g.*, common puffins), and nonresident mammalian predators (*e.g.*, Arctic foxes and mink) by lethal and nonlethal means during the nesting season.

Before raw down is exported from Iceland, it is cleaned to remove extraneous materials such as moss, grass, and soil. The raw down is then heated (processed) for at least 8 hours at minimum sustained temperatures of 100 °C to kill any ectoparasites and diseases that may be carried by the feathers.

Two other species of eider in the genus *Somateria* are the king eider (*S.*

*spectabilis*) and the spectacled eider (*S. fischeri*). The status of the king eider is essentially unknown, although periodic and limited spring migration counts suggest declines in bird numbers since 1976. Spectacled eiders are in severe decline and are listed as threatened under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), as are the more distantly related Steller’s eiders (*Polysticta stelleri*). The common eider is the only eider species known to occur in Iceland. Of the four eider species in the Northern Hemisphere, only the common eider in Iceland has experienced a long-term population increase likely due in part to a ban on hunting, improvements in eider nesting habitat, and predator control. Populations of common eider are variable throughout their range, which includes Northern Europe, Northern Russia, Alaska, Northern Canada, Greenland, and Iceland, but have declined in areas where hunting is allowed (*e.g.*, Spitsbergen and Siberia). The Circumpolar Eider Conservation Strategy and Action Plan, adopted by the Arctic Council in 1997, recognizes that an international approach is needed to manage eiders and endorses development of down harvesting as a sustainable use of eiders.

Icelanders have practiced “eider farming” for centuries. Although birds are not captive, they have developed a mutualistic association with humans. All nesting colonies are located on private lands. Some 650 colonies are currently registered with the Icelandic Ministry of the Environment. Landowners maintain legal rights to collect down from eider nests. Icelandic law allows landowners to have their eider nesting grounds declared “legally protected” during the breeding season from April 15 to July 14, which gives farmers the right to deny public access to nest sites and prohibit any shooting within 1.6 miles of nesting colony boundaries or prohibit any net fishing within 0.16 miles of the colony.

True eiderdown from the common eider is a scarce luxury item, with annual worldwide production averaging less than 3 metric tons, at a total annual average price of less than \$2.2 million (U.S.). Iceland currently exports eiderdown primarily to Denmark, Germany, and Japan where it may be re-exported elsewhere. The high cost and limited quantity of true eiderdown may be an incentive for false labeling of eiderdown which may actually have been acquired from another waterfowl species. The eiderdown may also have been obtained using unsustainable methods outside of Iceland. Large populations of common eider are found

in Russia, where they are not farmed, but declines have been documented in Siberia due to over-hunting.

#### Eiderdown Import Permit Fee

The general statutory authority to charge fees for applications for permits and certificates is found in 31 U.S.C. 9701, which states that services provided by Federal agencies are to be "self-sustaining to the extent possible." Federal user fee policy, as stated in Office of Management and Budget Circular No. A-25, requires Federal agencies to recoup the costs of "special services" that provide benefits to identifiable recipients. Permits are special services, authorizing identifiable recipients to engage in activities not otherwise authorized for the general public.

We propose to amend 50 CFR 13.11(d), the nonstandard fee schedule, to charge a \$100 application processing fee (user fee) for an eiderdown import permit. For migratory bird permits, these fees are reallocated to the seven Service Regional Offices where all the permit processing work is done to offset the cost of processing applications.

In addition to workload-related cost, the Service considered several other factors in developing the new permit application fee schedule for import of eiderdown in accordance with 31 U.S.C. 9701, which states that changes for services provided by the Government shall be based on (1) the costs to the Government; (2) the value of the service or thing to the recipient; (3) public policy or interest served; and (4) other relevant factors. Thus, the Service took into consideration such factors as whether the permit serves the public interest, and whether the type of permit to be issued typically provides a commercial benefit, either directly or indirectly, to the recipient. Eiderdown is generally used for commercial purposes. The Service therefore feels this fee is appropriate for a commercial use. While the Service's proposed \$100 fee will more closely conform to the Federal user fee policy by recovering a greater proportion of the direct and indirect costs of providing special services than is currently being required, this proposed permit fee allowing importation of eiderdown from Iceland is not great enough to recover the full cost of administering this permit. Administration costs include research and analysis, policy development, consultation, outreach, publication of notices in the **Federal Register**, and overall management of this permit. Remaining costs not captured through permit application fees must be met with money

appropriated for base funding of Service programs.

#### Additions to the Regulations Governing Import and Export

We have written the new regulation in plain language. We seek comment on this proposed regulation, particularly the following issues:

1. Appropriate down collection procedures, verification standards, and enforcement procedures;
2. Measures to ensure that exportation of down from Iceland does not encourage illegal importation of any other waterfowl species into the United States;
3. Record-keeping and annual reporting requirements;
4. Avian control of MBTA-protected species;
5. Reasonableness of the permit conditions; and
6. Reasonableness of the permit application fee.

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. Under limited circumstances, as allowable by law, we can withhold from the rulemaking record a respondent's identity. 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 individuals and organizations or businesses, and from individuals identifying themselves as representing an organization or business, available for public inspection in their entirety.

#### Endangered Species Act Considerations

Section 7(a)(2) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531, *et seq.*), requires all Federal agencies to "insure that any action authorized, funded, or carried out \* \* \* is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat." The Division of Endangered Species concurs that this proposed rule will have "no effect" on endangered species pursuant to section 7 of the ESA.

#### Required Determinations

*Regulatory Planning and Review.* In accordance with the criteria in Executive Order 12866, this rule is not a significant regulatory action.

a. This rule will not have an annual economic effect of \$100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis are not required. Currently less than 3 metric tons of Icelandic eiderdown are exported annually, primarily to Denmark, Germany, and Japan, for a total annual sale that does not exceed \$2.2 million (U.S.) on average. If a U.S. market is opened, very little eiderdown will likely be imported resulting in virtually no effect on the economy, productivity, jobs, the environment, or government.

b. This rule will not create inconsistencies with other agencies' actions. The rule deals solely with importation of Icelandic eiderdown into the United States. No other Federal agency has any role in regulating bird feather importation.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. There are no entitlements, grants, user fees, or loan programs associated with the regulation of eiderdown importation.

d. This rule will not raise novel legal or policy issues. This rule is primarily an amendment to and plain language rewrite of the existing regulations. Provisions to import Icelandic eiderdown proposed in the rule are in compliance with other laws, policies, and regulations.

*Regulatory Flexibility Act.* This rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Currently less than 3 metric tons of Icelandic eiderdown are exported annually, primarily to Denmark, Germany, and Japan, for a total annual sale that does not exceed \$2.2 million (U.S.) on average. If a U.S. market is opened, very little eiderdown will likely be imported resulting in virtually no effect on the economy, productivity, jobs, the environment, or government. An initial Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. There is a very limited supply of Icelandic eiderdown available each year. We anticipate that very few individuals and/or entities will request import permits to acquire some of this down.

*Small Business Regulatory Enforcement Fairness Act.* This is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of \$100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

*Unfunded Mandates Reform Act.* In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

a. This rule will not “significantly or uniquely” affect small governments. A Small Government Agency Plan is not required. Enforcement of the MBTA is solely the responsibility of the Federal Government.

b. This rule is not a “significant regulatory action” under the Unfunded Mandates Reform Act. It will not produce a Federal mandate of \$100 million or greater in any year.

*Takings.* This rule has no potential takings implications for private property as defined in Executive Order 12630. This rule will not significantly affect private property.

*Federalism.* In accordance with Executive Order 13132, the rule does not have sufficient Federalism effects to warrant preparation of a Federalism assessment. This rule will not interfere with the States’ ability to manage themselves or their funds.

*Civil Justice Reform.* In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

*Paperwork Reduction Act and Information Collection.* This proposed rule includes many new information collection requirements, including a completed eiderdown import permit application, written preconditions, certification of inspection, labeling requirements, recordkeeping requirements, and reporting.

Simultaneous with the publication of this proposed rule, we have submitted an application for information collection approval to OMB. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), information collections must be approved by OMB. Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. This proposed rule would institute new information collection burden hours, as described below. We will notify the public of OMB’s response

to our application in the final rule for this regulation.

We intend to collect information associated with the importation of Icelandic eiderdown from those U.S. citizens and U.S. companies that are granted an Icelandic eiderdown import permit, from representatives of the Government of Iceland (GOI), and from representatives of the Icelandic Eider Farmers’ Association.

Because it is difficult to identify the species of eider from which down is collected, and because it is difficult if not impossible to identify the source and type of down used in finished products, the requirements for information collection are key to monitoring common eider population stability, eiderdown harvest, down availability, down export from Iceland, government-certified collection procedures, possible down laundering, and possible false labeling. With less than 3 metric tons on average of eiderdown annually harvested from common eiders in Iceland, information collection will help track continuing harvests, alerting the U.S. Fish and Wildlife Service’s (Service) Office of Law Enforcement and the Service’s Division of Migratory Bird Management to possible problems including alleged violations of the Migratory Bird Treaty Act. Without this information collection, it would not be possible to assess population stability and down harvest sustainability.

Information collections associated with this proposed rule are found in sections 21.33 (a) and (c) (completing an eiderdown import permit application), 21.33(b) (preconditions required of the GOI), 21.33(e)(2) (certification of inspection by a GOI inspector), 21.33(e)(3) (labeling requirements), and 21.33(e)(5) and (6) (recordkeeping requirements).

The breakdown of the information collection burden for U.S. citizens is as follows: We estimate that 21.33(a) and (c) will have 25 annual respondents with 25 total annual burden hours valued at \$750; we estimate that 21.33(e)(5) and (6) will have 25 annual respondents with 25 total burden hours valued at \$750. Overall, we estimate that a total of 25 U.S. respondents will annually submit a total of 50 responses to the recordkeeping and reporting requirements associated with the importation of Icelandic eiderdown. We estimate that the average wage of U.S. citizens and representatives of U.S. companies importing eiderdown is \$30 per hour, and we estimate that each response will require an average of 1 hour to complete, for a total 50 hours per year valued at \$1,500 for all of the

information collection and recordkeeping requirements in this proposed rule for U.S. citizens and U.S. companies.

For GOI and members of the Icelandic Eider Farmers’ Association, many of the information collection requirements in this proposed rule are already standard business practice for exporting eiderdown from Iceland to countries other than the United States. Certain additional burden hours for these entities would be newly required by the proposed rule, however, and they are described below.

We estimate that 21.33(b)(3) will require the following information collection burden for GOI: The GOI will need an average of 25 hours per year to locate, photocopy, maintain records, and mail copies of all the veterinary certificates related to export of eiderdown to the United States; 25 hours to locate, photocopy, maintain records, and mail copies of all labeling certificates related to eiderdown export to the United States; 100 hours to visit randomly selected eider colonies to verify that preconditions are being met; 1 hour to locate, photocopy, maintain records, and mail information regarding preconditions to exporting eiderdown; and 1 hour to locate, photocopy, maintain records, and mail information for annual reporting, including information on the amounts of eiderdown exported to countries other than the United States. This amounts to a total of 152 hours per year for GOI to comply with the information collection requirements associated with the export of eiderdown to the United States and to other countries. We estimate that the average wage of GOI officials collecting the information is \$30 per hour (U.S.), and thus, the dollar value of the total annual hour burden is \$4,560.

We estimate that 21.33(b)(3)(v) and (e)(3) will require the following information collection burden for representatives of the Icelandic Eider Farmers’ Association: 50 representatives of the Eider Farmers’ Association will each need 1 hour to photocopy and mail records regarding the processing and export of eiderdown to GOI. This amounts to a total of 50 hours per year for Icelandic eider farmers to comply with the information collection requirements associated with the export of eiderdown to the United States. We estimate that the average wage of eider farmers collecting the information is \$30 per hour (U.S.), and thus, the dollar value of the total annual hour burden is \$1,500.

OMB regulations at 5 CFR part 1320 require that interested members of the public and affected agencies have an

opportunity to comment on information collection and recordkeeping activities. Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden of the information collection; (3) ways to enhance the quality, utility, and clarity of the information to be collected; (4) ways to minimize the burden of the information collection on respondents; and (5) the appropriateness of the application fee. See the **DATES** and **ADDRESSES** sections of this document for information on submitting your comments on this information collection.

*National Environmental Policy Act.* We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 516 DM. This rule does not constitute a major Federal action significantly affecting the quality of the human environment, and does not require an environmental assessment.

*Government-to-Government Relationship with Tribes.* In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM, we have evaluated potential effects on Federally recognized Indian tribes and have determined that there are no potential effects.

*Energy Supply, Distribution or Use (Executive Order 13211).* On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action and No Statement of Energy Effects is required.

*Clarity of Regulations.* Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements of the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the

description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Send a copy of any written comments about how we could make this rule easier to understand to: Office of Executive Secretariat and Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW., Washington, DC 20240. You may also e-mail comments to this address: *Exsec@ios.doi.gov*.

**List of Subjects in 50 CFR Part 21**

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons stated in the preamble, we propose to amend parts 13 and 21, chapter I, title 50 of the Code of Federal Regulations, as follows.

**PART 13—[AMENDED]**

1. The authority citation for part 13 continues to read as follows:

**Authority:** 16 U.S.C. 668a, 704, 712, 742j-1, 1382, 1538(d), 1539, 1540(f), 3374, 4901-4916; 18 U.S.C. 42; 19 U.S.C. 1202; E.O. 11911, 41 FR 15683; 31 U.S.C. 9701.

2. Amend § 13.11(d)(4) by adding the following entry to the end of the table, to read as follows:

**§ 13.11 Application procedures.**

\* \* \* \* \*  
(d) \* \* \*  
(4) *Nonstandard fees.*

Type of permit	Fee
* * * * *	*
Import permit for eiderdown from Iceland (§21.33) .....	\$100

3. Amend § 13.12(b) by adding to the table the following entry in numerical order under "Migratory bird permits" to read as follows:

**§ 13.12 General information requirements on applications for permits.**

\* \* \* \* \*  
(b) \* \* \*

Type of permit	Section
* * * * *	*
Migratory bird permits:	*
Importing eiderdown from Iceland	21.33

**PART 21—[AMENDED]**

4. The authority citation for part 21 continues to read as follows:

**Authority:** Pub. L. 95-616; 92 Stat. 3112 (16 U.S.C. 712(2)); Pub. L. 106-108.

5. Add § 21.33 to subpart C to read as follows:

**§ 21.33 Import and sale of Icelandic eiderdown.**

(a) *What must I do to import processed Icelandic eiderdown into the United States?* To import processed Icelandic eiderdown into the United States, you must have an eiderdown import permit issued pursuant to this part. We will issue permits for the importation of Icelandic eiderdown lawfully collected, processed, and exported by members of the Icelandic Eider Farmers' Association (most Icelandic farmers who harvest down are members of this cooperative) or their assigns, from the common eider sea duck (*Somateria mollissima borealis*) nesting in Iceland, in accordance with the provisions of this part. Because it is difficult if not impossible to identify the source and type of down used in finished products, such products are prohibited from importation.

(b) *What are the preconditions for an import permit?* The Director may permit the import of Icelandic eiderdown provided the Government of Iceland (GOI) documents, in writing and in English, satisfaction of the following preconditions:

(1) That Icelandic eiderdown is collected by sustainable means. This includes collection procedures and periods, the collection process, the quantity of down to be taken from each nest, and verification standards.

(2) That only sustainably harvested down from Iceland is being exported to the United States.

(3) At the end of each calendar year, that:

(i) The common eider population continues to be stable (If we cannot verify population sustainability, then we will not issue permits for the import of Icelandic eiderdown);

(ii) No measures are being taken to kill or injure Migratory Bird Treaty Act-protected (MBTA) species (e.g., ravens, black-backed gulls, and common puffins);

(iii) Down is not being treated with DDT or other similar compounds banned in the United States;

(iv) Hunting of common eiders continues to be banned nationwide; and

(v) The complete annual export records contain the exact weight, shipment dates, and Icelandic shipment and permit numbers of all eiderdown.

(c) *How do I apply for a permit?* Anyone wishing to import processed Icelandic eiderdown collected and prepared under the laws and regulations

of the GOI may apply for an import permit. Upon satisfaction of the Director that the preconditions of paragraph (b) of this section have been met, we will accept an application for import of Icelandic eiderdown. You must submit your completed application to the Regional Director—Attention Migratory Bird Permit Office in the Region where your business is headquartered, or, for private individuals, where you live (see § 2.2 of this chapter for the Regional boundaries and addresses).

(1) Each application must contain the information required under § 13.12(a) of this subchapter.

(2) Each applicant must sign the following certification statement: "I hereby certify that, to the best of my knowledge, the eiderdown I import under the authorization of this permit was collected and exported according to the conditions for the importation of Icelandic eiderdown as set forth in 50 CFR 21.33(b)." We will not issue a permit under this section without this signed certification statement.

(3) You must submit a check or money order made payable to the "U.S. Fish and Wildlife Service" in the amount of the application fee for permits issued under this section listed in § 13.11(d) of this subchapter.

(d) *What are the permit provisions?* A permit issued under this section authorizes the holder to import, possess, transport, sell, or dispose of processed Icelandic eiderdown collected from the common eider sea duck (*Somateria mollissima borealis*) for commercial or personal purposes.

(1) We will not issue a permit for these purposes unless the applicant certifies that the feathers were gathered according to the protocol detailed in paragraph (b) of this section by signing the certification provided in paragraph (c)(2) of this section. In addition, each shipment of eiderdown to a U.S. company or individual must include an Icelandic eiderdown export permit and an import permit issued by the Service.

(2) To acquire a permit application, contact the Migratory Bird Permit Office in the Region where your business is headquartered, or, for private individuals, where you live (see § 2.2 of this chapter for Regional boundaries and addresses, or go to the Internet at <http://permits.fws.gov/mbpermits/birdbasics.html>, then click on Regional Bird Permit Offices, for the address).

(3) You may, without a permit, sell in interstate commerce lawfully imported processed eiderdown in either raw processed form or that has been fashioned into finished products produced from down.

(e) *What are the permit conditions and importation regulations?*

(1) *Collection.* All eiderdown imported under this permit must be collected and exported from Iceland according to the "sustainable harvest" conditions set forth in paragraph (b) of this section.

(2) *Certification.* Eiderdown imported under this section must be accompanied by a certification of inspection and weight by legally appointed Icelandic down inspectors as specified by *Instructions for Eiderdown Inspectors* (Icelandic Ministry of Agriculture, 10 March 1972) and by *Iceland's Law on Quality Inspection of Eiderdown* (NR 39, p. 310, 11 May 1970).

(3) *Shipping and labeling.* All eiderdown imported from Iceland must be packaged in transparent shipping bags. Every bag must be sealed and labeled with the guarantee, "Grade One Icelandic Common Eiderdown," and in addition must include the package weight of each down-filled bag. That weight must be marked on the label as specified on the "Inspector's Weighing and Quality Certificate" currently utilized by the GOI. A signed, original "Veterinary Certificate," which certifies that the down is disease free, must be attached to each packing bag. Each shipment of imported eiderdown must include an Icelandic eiderdown export permit and a copy of your import permit issued by a USFWS Regional Migratory Bird Permit Office. Import permits may be used for multiple shipments of eiderdown and are issued on a calendar year-to-year basis.

(4) *Commercial export prohibition.* You may not export from the United States for commercial purposes any raw eiderdown imported under this permit. You may not export from the United States for commercial purposes any finished product containing the eiderdown.

(5) *Recordkeeping.* You must maintain complete and accurate records of all eiderdown that you import, including the date received, disposition, date of disposition, and copies of the permits and certificates included with each shipment from the GOI. You must retain these records for 5 years following the end of the calendar year covered by the records.

(6) *Annual report.* You must submit a completed Form 3-202-xx by January 31 of each year for the preceding year to your issuing Migratory Bird Permit Program Office.

(7) *Term of permit.* We will issue permits under this section on a calendar year-to-year basis.

(f) *Does this rule contain information collection requirements?*

Yes. The OMB control number for the information collection associated with these regulations (50 CFR Parts 13 and 21) is 1018-XXXX. A federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Dated: August 21, 2003.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 03-22298 Filed 9-4-03; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 030821210-3210-01; I.D.081103A]

RIN 0648-AR36

#### Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 16-1

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule to implement Amendment 16-1 to the Pacific Coast Groundfish Fishery Management Plan (FMP). Amendment 16-1 would set a process for and standards by which the Council will specify rebuilding plans for groundfish stocks declared overfished by the Secretary of Commerce. Amendment 16-1 is intended to ensure that Pacific Coast groundfish overfished species rebuilding plans meet the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), in particular National Standard 1 on overfishing and § 304(e), which addresses rebuilding overfished fisheries. Amendment 16-1 is also intended to partially respond to a court order in which NMFS was ordered to provide Pacific Coast groundfish rebuilding plans as FMPs, FMP amendments, or regulations, per the Magnuson-Stevens Act.

**DATES:** Comments must be submitted in writing by October 6, 2003.

**ADDRESSES:** Comments on Amendment 16-1 or supporting documents should be sent to D. Robert Lohn, Administrator, Northwest Region,

NMFS, Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070.

Copies of Amendment 16-1 and the environmental assessment/ regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Portland, OR 97220, phone: 503-820-2280.

**FOR FURTHER INFORMATION CONTACT:**

Yvonne deReynier (Northwest Region, NMFS), phone: 206-526-6150; fax: 206-526-6736 and; e-mail: [yvonne.dereynier@noaa.gov](mailto:yvonne.dereynier@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

This **Federal Register** document is also accessible via the Internet at the Office of the **Federal Register's** website at: [http://www/access.gpo.gov/su\\_docs/aces140.html](http://www.access.gpo.gov/su_docs/aces140.html).

NMFS is proposing this rule to implement Amendment 16-1 to the FMP. Amendment 16-1 mainly revises the FMP and not Federal regulations. However, the specific standards that govern the harvest levels for overfished species rebuilding plans would be codified in the Code of Federal Regulations (CFR). Thus, this proposed rule would establish a new section in the Federal groundfish regulations at 50 CFR 660.370 for overfished species rebuilding plans. This proposed rule to implement Amendment 16-1 will be shortly followed by a proposed rule to implement Amendment 16-2, which was adopted by the Council in June 2003. If approved, Amendment 16-2 would place rebuilding plans for canary rockfish, darkblotched rockfish, lingcod, and Pacific ocean perch in the FMP and in Federal regulations. NMFS expects to publish a Notice of Availability for Amendment 16-2 in autumn 2003. This proposed rule is based on recommendations of the Council, under the authority of the Pacific Coast Groundfish FMP and the Magnuson-Stevens Act. The background and rationale for the Council's recommendations are summarized below. Further detail appears in the EA/RIR/IRFA prepared by the Council for Amendment 16-1.

**Background**

Amendment 12 to the FMP was intended to provide a process for developing overfished species rebuilding plans. Under Amendment 12, rebuilding plans were to be stand-alone documents that described an overfished stock's status and articulated rebuilding goals and strategies for achieving those

goals. Amendment 12 was challenged, and the court ordered NMFS to develop rebuilding plans as fishery management plans, plan amendments, or regulations. Amendment 16-1 is intended to partially respond to this Court order (*Natural Resources Defense Council, Inc. v. Evans*, 168 F. Supp. 2d 1149 (N.D. Cal 2001).)

Amendment 16-1 would require that Pacific Coast groundfish overfished species rebuilding plans be added into the FMP via FMP amendment, and then implemented through Federal regulations. For each approved overfished species rebuilding plan, the following parameters would be specified in the FMP: estimates of unfished biomass ( $B_0$ ) and target biomass ( $B_{MSY}$ ), the year the stock would be rebuilt in the absence of fishing ( $T_{MIN}$ ), the year the stock would be rebuilt if the maximum time period permissible under National Standard Guidelines were applied ( $T_{MAX}$ ) and the year in which the stock would be rebuilt based on the application of stock rebuilding measures ( $T_{Target}$ ). These estimated values will serve as management benchmarks in the FMP. The FMP would not be amended if, as is likely to happen, the values for these parameters change after new stock assessments. Other relevant information listed in Amendment 16-1 will also be included in the FMP.

The two rebuilding parameters that control the establishment of the annual or biennial optimum yield of each overfished species will be codified in the CFR: the target year for rebuilding and the harvest control rule to be used to rebuild the stock. If, after a new stock assessment, the Council and NMFS conclude that these should be revised, the revision will be done through a rulemaking, and the updated values codified in the CFR.

Amendment 16-1 additionally sets schedules and standards for reviewing rebuilding plans. The current FMP sets five goals for evaluating rebuilding plans: (1) Achieve the population size and structure that will support the maximum sustainable yield (MSY) within the specified time period; (2) minimize, to the extent practicable, the social and economic impacts associated with rebuilding, including adverse impacts on fishing communities; (3) fairly and equitably distribute both the conservation burdens (overfishing restrictions) and recovery benefits among commercial, recreational, and charter fishing sectors; (4) protect the quantity and quality of habitat necessary to support the stock at healthy levels in the future, and; (5) promote widespread public awareness, understanding, and

support for the rebuilding program. Amendment 16-1 would require that the Council review rebuilding plan goals 2-5 every two years, but goal 1 only with new stock assessments, since new stock assessment data would be needed to determine whether rebuilding trajectories were being met. Stock assessments are generally updated every 2-4 years, with overfished species having higher priority in assessment scheduling.

As stated above, the first goal of rebuilding plans is to: "Achieve the population size and structure that will support the maximum sustainable yield (MSY) within the specified time period." Amendment 16-1 specifies that the rebuilding plan for each species will set a species-specific standard for determining the adequacy of rebuilding progress for the particular species toward that goal. The Council had considered whether to set a single standard that would apply to all species, but decided that the variations in life histories, productivity, and abundances of the different overfished species warranted a species-specific rebuilding standard in each rebuilding plan.

Amendment 16-1 also considered how rebuilding plans would operate if an overfished species were to become listed as either threatened or endangered under the Endangered Species Act (ESA). Under Amendment 16-1, ESA jeopardy standards and/or recovery plans would take precedence over rebuilding plans if they establish higher recovery standards than those already set in the rebuilding plans. If a species is listed as threatened or endangered under the ESA and is subsequently de-listed, but still not rebuilt to  $B_{MSY}$  under the Magnuson-Stevens Act, then the rebuilding plan would continue to provide standards for the management and rebuilding of that species.

Finally, Amendment 16-1 included several minor changes to the FMP text. These changes include: (1) revising the list of species managed under the FMP to correct mis-spellings and to specify certain rockfish species already managed under the FMP as part of the FMP's generic inclusion of all species of the family *Scorpaenidae*; (2) revising the FMP definitions of "Maximum Fishing Mortality Threshold" or "MFMT" and of "Minimum Stock Size Threshold" or "MSST" to ensure that they match the definition of these terms in the National Standard Guidelines; (3) revising the requirements for items to be included in the annual Stock Assessment and Fishery Evaluation (SAFE) report and the schedule for delivery of different sections of that

report; (4) requiring the federal groundfish observer program in the FMP, matching existing Federal regulations at 50 CFR 660.360, and; (5) reorganizing sections of Chapters 4 and 5 of the FMP for a more logical progression of information, without a revision to the requirements or effects of the FMP.

### Federal Regulations under Amendment 16-1

Regulations to implement Amendment 16-1 would establish a new section of the Federal groundfish regulations at 50 CFR 660.370, "Overfished Species Rebuilding Plans." Because Amendment 16-1 provides a framework for future rebuilding plans, the regulations implemented through this proposed rule would similarly provide a framework within federal groundfish regulations for future species-specific rebuilding plans. Amendment 16-2, which NMFS plans to make available for public review in autumn 2003, would propose implementation of the first four overfished species rebuilding plans (canary rockfish, darkblotched rockfish, lingcod, Pacific ocean perch) within 50 CFR 660.370. In the future, overfished species rebuilding plans would be reviewed under the schedule set by Amendment 16-1 and Federal regulations implementing species-specific rebuilding plans would be amended through a public notice-and-comment rulemaking.

### Classification

At this time, NMFS has not determined whether Amendment 16-1, which this proposed rule would implement, is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

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

The Council has prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA is available from the Council (see **ADDRESSES**). A summary of the IRFA follows:

A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUMMARY** and **BACKGROUND** at the beginning of this proposed rule. There are no recordkeeping, reporting, or other compliance issues forthcoming from this proposed rule. This proposed rule

does not duplicate, overlap, or conflict with other Federal rules.

A fish-harvesting business is considered a "small" business by the Small Business Administration (SBA) if it has annual receipts not in excess of \$3.5 million. Approximately 2,000 vessels participate in the West Coast groundfish fisheries. Of those, about 500 vessels are registered to limited entry permits issued for either trawl, longline, or pot gear. About 1,500 vessels land groundfish against open access limits while either directly targeting groundfish or taking groundfish incidentally in fisheries directed at non-groundfish species. All but 10-20 of those vessels are considered small businesses by the SBA. This proposed rule is not expected to yield disproportionate economic impacts between those small and large entities. In the 2001 recreational fisheries, there were 106 Washington charter vessels engaged in salt water fishing outside of Puget Sound, 232 charter vessels active on the Oregon coast and 415 charter vessels active on the California coast.

The proposed action in this amendment affects only the administrative process by which individual species rebuilding plans are formulated, and so does not have significant adverse economic effects on consumers, producers or processors of groundfish. The EA/RIR/IRFA defines four issues for which alternatives were identified and selected by the Council. Of these four issues, only the alternatives identified under Issue 1 have regulatory implications. Under Issue 1, the Council considered the form (FMP amendments, regulations, a combination thereof) and required elements of a rebuilding plan. The remaining issues are concerned with setting internal Council standards for periodic review and modification of rebuilding plans (Issues 2 and 3), and defining the interaction of a rebuilding plan with recovery plans for a rebuilding species that is subsequently listed under the ESA (Issue 4).

The Council considered 4 alternatives under Issue 1, including a status quo alternative. All alternatives, with the exception of the status quo, would implement overfished species rebuilding plans as either FMP amendments or Federal regulations. One alternative (Issue 1, Alternative b) would have implemented rebuilding plans as FMP amendments, with rebuilding parameters specified in the FMP. Another alternative (Issue 1, Alternative c) would have implemented rebuilding plans as Federal regulations, with T<sub>TARGET</sub> and a harvest control rule for each overfished species

specified in regulations. The final and preferred alternative (Issue 1, Alternative d) would specify T<sub>TARGET</sub> and the harvest control for each overfished species in regulations, and would require the Council to describe the formulas and methodology for determining other rebuilding parameters in the FMP. This was the preferred alternative because it ensures that basic rebuilding plan information is provided in the FMP for each overfished species, while still allowing updates to some rebuilding parameters through notice and comment rulemaking. In this fashion, Amendment 16-1 complies with the Magnuson-Stevens Act requirement at Section 304(e)(3) that overfished species rebuilding plans take the form of "a fishery management plan, plan amendment, or proposed regulations."

While there will be no direct impact on small entities as a result of adopting any particular process for formulating rebuilding plans, the implementation of specific rebuilding plans for overfished species may entail substantial economic impacts for groundfish processors, commercial harvesters and recreational charter vessels. These type of impacts are specific to particular stocks or species and so will be addressed in the individual rebuilding plans themselves. While there may be slight differences between the alternatives in the amount of administrative capacity required to formulate and implement individual species rebuilding strategies, these differences are not quantifiable and will depend more on the variability of periodic stock assessments once a particular rebuilding plan is adopted than on the effects of these proposed actions or the subsequent adoption of individual rebuilding plans.

Based on the analysis within the IRFA, the agency does not believe the rule has a significant impact on a substantial number of small entities and has so advised the SBA. However, NMFS welcomes comments on this issue (see **ADDRESSES**) and will notify the public of its final determination in the final rule for this action.

### List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: August 29, 2003.

**Rebecca Lent,**

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

For the reasons set out in the  
preamble, 50 CFR part 660 is proposed  
to be amended as follows:

**PART 660—FISHERIES OFF WEST  
COAST STATES AND IN THE  
WESTERN PACIFIC**

1. The authority citation for part 660  
continues to read as follows:

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

2. Section § 660.370, “Overfished  
Species Rebuilding Plans” is added to  
read as follows:

**§ 660.370 Overfished Species Rebuilding  
Plans.**

For each overfished groundfish stock  
with an approved rebuilding plan, this  
section contains the standards to be  
used to establish annual or biennial  
OYs, specifically the target date for  
rebuilding the stock to its MSY level  
and the harvest control rule to be used  
to rebuild the stock.

[FR Doc. 03–22571 Filed 9–4–03; 8:45 am]

**BILLING CODE 3510–22–S**

# Notices

Federal Register

Vol. 68, No. 172

Friday, September 5, 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.

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. 03-075-1]

#### Public Meeting; Plant Protection and Quarantine Stakeholders

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Advance notice of public meeting and request for suggested agenda topics.

**SUMMARY:** We are advising the public that the Animal and Plant Health Inspection Service will hold a public meeting for the purpose of exchanging information on our Plant Protection and Quarantine (PPQ) program. We are planning the meeting agenda and are requesting suggestions for topics of general interest to PPQ stakeholders.

**DATES:** The meeting will be held December 9 and 10, 2003. Suggestion for agenda topics should be submitted by October 6, 2003.

**ADDRESSES:** The meeting will be held at the Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Ms. Paula Henstridge, Special Assistant to the Deputy Administrator, Plant Protection and Quarantine, Room 302-E Whitten Building, 14th Street and Independence Avenue, SW., Washington, DC 20250; (202) 720-1737; e-mail [paula.henstridge@aphis.usda.gov](mailto:paula.henstridge@aphis.usda.gov).

**SUPPLEMENTARY INFORMATION:** The Animal and Plant Health Inspection Service's Plant Protection and Quarantine (PPQ) program protects and safeguards the Nation's plant resources through programs and activities to prevent the introduction and spread of plant pests and noxious weeds. PPQ is planning a public meeting to present information about topics of interest to persons who are affected by PPQ

programs, as well as to receive feedback on the PPQ mission, the way the mission is carried out, and the issues PPQ must be prepared to address in the future to continue to be a relevant and credible plant health organization. We believe that such an information exchange is particularly timely as PPQ moves forward from the operation of certain agricultural quarantine and inspection activities to the transfer of these activities to the newly established Customs and Border Protection function of the Department of Homeland Security (DHS).

The agenda for the meeting is not yet complete. Topics will include, but are not limited to: Future priorities, budget update and outlook, update on the DHS transition, pest detection and emergency programs, and issues related to trade and risk assessments. Five interactive panel discussions and workshops are planned on the following topics: Pest risk assessments; permit systems; the stakeholder role in DHS; developing strategic approaches to export enhancement; and Federal, State, and industry roles in implementing incident command in response to pest threats. We are inviting key personnel from DHS, congressional committees, States, and certain stakeholder groups to serve on the panels. Before finalizing the agenda, we are seeking suggestions for additional meeting topics from the public.

Please submit suggested meeting topics to the person listed under **FOR FURTHER INFORMATION CONTACT** by October 6, 2003. After the agenda is finalized, APHIS will announce the agenda topics in the **Federal Register**.

We request that all persons wishing to attend the meeting preregister on the PPQ Web site, <http://www.aphis.usda.gov/ppq/stakeholders/meeting/index.html>. There is no registration fee. Attendance will be guaranteed to the first 100 persons who preregister by November 30, 2003. Persons who preregister should indicate which one of the five concurrent workshops they would like to attend. If you do not have access to the Internet, you may preregister by contacting Ms. Linda Toran at (301) 734-5307.

The Melrose Hotel is setting aside a number of rooms at the conference rate. When reserving a room, please specify that you would like the USDA/APHIS rate. The telephone number for the hotel

is (202) 955-6400 or toll free (800) 635-7673. The hotel's Web site is <http://www.melrosehotelwashingtondc.com>.

Done in Washington, DC, this 2nd day of September 2003.

**Peter Fernandez,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 03-22652 Filed 9-4-03; 8:45 am]

**BILLING CODE 3410-34-P**

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Buckhorn Mountain Project, a Supplement to the Final Environmental Impact Statement for Crown Jewel Mine, Okanogan and Wenatchee National Forests, Okanogan County, WA

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare a Supplemental Environmental Impact Statement.

**SUMMARY:** Notice is hereby given that the USDA, Forest Service and the Washington State Department of Ecology will jointly prepare a Supplemental Environmental Impact Statement (SEIS) for a proposal by Crown Resources Corporation (Crown) to develop a mine and mill for precious mineral extraction in the vicinity of Chesaw, Washington. The Buckhorn Mountain Project will supplement the Final environmental impact statement (FEIS) for Crown Jewel Mine, which was released February 7, 1997. The Buckhorn Mountain Project is located approximately 21 miles east of Oroville, Washington and 3½ miles south of the Canadian border. Crown proposes to develop an underground gold mine on Buckhorn Mountain approximately 3.5 air miles east of Chesaw, Washington in sections 24 and 25, T. 40 N., R. 30 E., W.M. with a satellite milling facility 2 miles south of Chesaw in Section 4, T. 39 N., R. 30 E., W.M. The purpose of the SEIS will be to evaluate an underground mining and milling configuration that is different from the underground mining operation proposed in the Crown Jewel Mine FEIS. The proposed project will comply with the direction in the December 1989 Okanogan National Forest Land and Resource Management Plan (Forest Plan), as amended. The Forest Plan provides the overall

guidance for management of NFS lands included in this proposal. The agencies invite written comments on the scope of this project. In addition, the agencies give notice of this analysis so that interested and affected individuals are aware of how they may participate and contribute to the final decision.

**DATES:** Comments concerning the scope of this analysis must be received by October 20, 2003. Public information and scoping meetings are proposed to be held in September to provide information about the project to the public and to allow people to comment on the project. The Draft SEIS is expected to be filed in October 2004. The Final SEIS is expected to be filed in April 2005.

**ADDRESSES:** Submit written comments and suggestions concerning the scope of the analysis to Phil Christy, Project Coordinator, Tonasket Ranger District, 1 West Winesap, Tonasket, Washington 98855 [Phone: (509) 486-5137].

**FOR FURTHER INFORMATION:** Direct questions about the proposed action and SEIS to Phil Christy, Project Coordinator, Tonasket Ranger District, 1 West Winesap, Tonasket, Washington 98855 [Phone: (509) 486-5137].

#### **SUPPLEMENTARY INFORMATION:**

#### **Purpose and Need for Action**

The purpose and need for this action is to respond to the plan of operations and other permit applications submitted by Crown Resources Corporation to construct and operate a mine of the specific body of ore on Buckhorn Mountain, along with processing facilities, while protecting surface resources.

#### **Proposed Action**

The Project would consist of an underground mine on NFS land and private land with an off-site mill and tailings facility on private land. The mineral deposit itself lies under both private and NFS lands. The ore would be transported from the mine to the mill site by road in highway-legal trucks. The majority of underground mine openings would be backfilled upon completion of mining. The backfill would consist of development rock from the mine and gravel excavated during development of the mill/tailings facility. A cement binder would be added to some of the backfill. Haul trucks would transport the backfill gravel to the mine site. Water used in the milling facility would be obtained using existing surface and ground water rights controlled by Crown. Water would be conveyed in a buried pipe from the location of the water rights to the mill

for process use. The mine site would consist of approximately 27 acres of fenced surface facilities located above the ore deposit. Approximately 23 acres of NFS lands would be disturbed. The mill and tailings disposal facility would occupy approximately 90 acres of private land. The transportation route from the mine to the mill is along a road alignment approximately 7 miles in length.

Approximately 8 months of underground development work is required prior to initial ore production. The 88,000 tons of development rock generated during this initial period would be temporarily staged on the surface until returned underground as backfill. Construction of the mill, administrative office, and the tailings disposal facility would occur concurrently. Full-scale production of fifteen hundred tons of ore per day is likely to begin twelve months after project initiation. Commercial production is projected to continue for approximately 90 months (7.4 years). Active physical decommissioning of site facilities would continue for approximately 2 additional years upon mining cessation, followed by a minimum of three additional years of reclamation monitoring and final closure. The estimated number of employees is 90 at the peak of construction activities and 150 during operations, including full time contract trucking employees. The SEIS will include analysis and development of mitigation measures and monitoring requirements for reclamation, environmental education of employees, spill prevention/emergency response planning, water quality monitoring, erosion and sediment control, air quality, wildlife impacts and protection, and public safety. Mill tailings, composed of dilute cyanide process solution and ground ore, is proposed to be detoxified using a closed circuit destruction process and piped to an engineered disposal facility on private land.

#### **Possible Alternatives**

The Crown Jewel Mine FEIS analyzed a reasonable range of alternatives. The new underground mine proposal differs from the underground mine presented in the Crown Jewel Mine Final EIS, although some components remain the same. Because a reasonable range was established in the preceding FEIS, possible alternatives will be limited to alternative components to the underground mining/milling operation and will be based on the response to scoping.

#### **Lead and Cooperating Agencies**

The Forest Service and the Washington State Department of Ecology will be joint lead agencies in accordance with 40 CFR 1501.5(b), and are responsible for preparation of the SEIS. The Washington State Department of Natural Resources will be a cooperating agency in accordance with 40 CFR 1501.6. Scoping will determine if additional cooperating agencies are needed.

#### **Nature of the Decision To Be Made**

The Forest Supervisor for the Okanogan and Wenatchee National Forests will decide whether or not to permit a mining operation on Buckhorn Mountain, and if it is permitted, what mitigation measures and monitoring will be required. The Forest Supervisor will only be making a decision regarding operations on NFS lands.

#### **Scoping Process**

Public participation will be especially important at several points during the analysis. The participating agencies will be seeking information, comments, and assistance from Federal, State, local agencies, Native American Tribe and other individuals and organizations who may be interested in or affected by the proposed project. This input will be used in preparation of the Draft SEIS. The scoping process includes:

- Identifying potential issues not addressed in the Crown Jewel Mine EIS.
- Identifying major issues to be analyzed in depth.
- Identifying issues, which have been addressed by a relevant previous environmental analysis include the Crown Jewel Mine EIS.
- Exploring additional potential components of an underground mine/mill alternative, which will be derived from issues recognized during scoping activities.
- Identifying potential environmental effects of this project.
- Determining potential cooperating agencies and task assignments.
- Notifying interested members of the public of opportunities to participate through meetings, personal contacts, or written comment. Keeping the public informed through the media and/or written material (*e.g.* newsletters, correspondence, *etc.*)

#### **Preliminary Issues**

A number of issues were identified in the Crown Jewel Mine EIS. The major issues identified concerned water quality and quantity, wildlife habitat impacts, increased traffic, the use of toxic materials for processing the ore, extraction impacts, potential spills, the

effects on the visual quality of the area, and social/economic impacts. Because of the very limited impacts to NFS lands, the current proposal minimizes the issues of wildlife habitat, extraction impacts and visual quality, and eliminates the issue of the use of toxic materials on NFS lands. Because of the change in the transportation route, the issue of potential spills on NFS lands is also minimized.

#### Permits or Licenses Required

Numerous permits and licenses are required for this project. A list of these can be requested at the contact address above.

#### Comment Requested

This notice of intent initiates the scoping process, which guides development of the SEIS. The Forest Service is seeking public and agency comment on the proposed action to determine if any additional issues arise which were not already addressed in the Crown Jewel Mine EIS. Additional issues may lead either to other alternatives, or additional mitigation measures and monitoring requirements.

#### Early Notice of Importance of Public Participation in Subsequent Environmental Review

A Draft SEIS will be prepared for comment. Copies will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. The comment period on the Draft SEIS 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 a Draft SEIS 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 SEIS stage but that are not raised until after the completion of the Final SEIS 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 participating agencies at a time when it can meaningfully consider them and respond to them in the Final SEIS.

To assist the participating agencies in identifying and considering issues and concerns on the proposed action, comments on the Draft SEIS 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 SEIS 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.

In the Final SEIS, the participating agencies are required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the Draft SEIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

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.

The Forest Supervisor for the Okanogan and Wenatchee National Forest will be the responsible official for this SEIS and its Record of Decision. As the responsible official, the Forest Supervisor will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations (36 CFR part 215).

Dated: August 28, 2003.

**Richard Emmick**,

*Engineering, Lands and Minerals Group Leader.*

[FR Doc. 03-22614 Filed 9-4-03; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Siskiyou County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Siskiyou County Resource Advisory Committee will meet in Yreka, California, September 15, 2003. The meeting will include routine business and discussion, review, and

recommendation of submitted project proposals.

**DATES:** The meeting will be held September 15, 2003, from 4 PM until 8 PM.

**ADDRESSES:** The meeting will be held at the Yreka High School Library, Preece Way, Yreka, California.

**FOR FURTHER INFORMATION CONTACT:** Don Hall, RAC Coordinator, Klamath National Forest, (503) 841-4468 or electronically at [donaldhall@fs.fed.us](mailto:donaldhall@fs.fed.us).

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. Public comment opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: August 28, 2003.

**Margaret J. Boland**,

*Designated Federal Official.*

[FR Doc. 03-22613 Filed 9-4-03; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Notice of Resource Advisory Committee Meeting

**AGENCY:** Lassen Resource Advisory Committee, Susanville, California, USDA Forest Service.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-393) the Lassen National Forest's Lassen County Resource Advisory Committee will meet Thursday, September 11, 2003, in Susanville, California for a field trip and field business meeting. The meetings are open to the public.

**SUPPLEMENTARY INFORMATION:** The field trip departs the Lassen National Forest Headquarters Office, 2550 Riverside Drive, Susanville, CA 96130 at 8:15 a.m. and the field business meeting starts at 1 p.m. at Willow Creek Campground on the Modoc National Forest off Highway 139 on September 11, 2003. Agenda topics will include: Review previous meeting minutes and approve, RAC member/sub-committee reports, Additional funds remaining from projects, Timeframes to complete projects and set limits, Review November RAC Meeting Proposal and finalize, Review Monitoring Reports, Report on Chico Flat Field Trip, Proposed agenda for next meeting, and Depart for home. Time will also be set

aside for public comments at the end of the meeting.

**FOR FURTHER INFORMATION CONTACT:** Contact Robert Andrews, Eagle Lake District Ranger and Designated Federal Office, at (530) 257-4188; or RAC Coordinator, Heidi Perry, at (520) 252-6604.

**Edward C. Cole,**

*Forest Supervisor.*

[FR Doc. 03-22616 Filed 9-4-03; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Forest Inventory and Analysis Data Management

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of issuance of agency interim directive.

**SUMMARY:** The Forest Service Forest is issuing an interim directive (ID) to Forest Service Handbook (FSH) 4809.11, chapter 10, to guide Forest Inventory and Analysis employees in managing information in the Forest Inventory and Analysis Database (FIADB) in a manner consistent with the data privacy provisions of Section 1770 of the Food Security Act of 1985 (7 U.S.C. 2276). The FIADB contains detailed plot and tree level data with approximate plot coordinates that allow flexible spatial data analysis. The direction adopted in the ID allows for increased location accuracy of the data from within 1.0 mile to 0.5 for each Forest Inventory plot, while requiring data masking procedures to ensure data privacy as required by Section 1770 of the Food Security Act. This interim directive is issued as ID 4809.11-2003-1 to FSH 4809.11, chapter 10.

**DATES:** This interim directive is effective September 5, 2003.

**ADDRESSES:** This interim directive (ID 4809.11-2003-1) is available electronically from the Forest Service via the World Wide Web/Internet at <http://www.fs.fed.us/im/directives>. Additional information regarding data access guidelines may be directed to Richard Guldin, Science Policy, Planning, Information, and Inventory Staff—Forest Service, Mail Stop 1119, Washington, DC 20090-6090; by electronic mail to [SPPII@fs.fed.us](mailto:SPPII@fs.fed.us); or by fax to (703) 605-5131. Documents are also available for inspection in the office of Science Policy, Planning, Inventory and Information Staff at 1601 North Kent Street, Arlington, VA, Suite 4110, between regular business hours of 8:30

a.m. and 4:30 p.m. Monday through Friday. To facilitate entrance into the building, visitors are encouraged to call ahead (703-605-4177).

**FOR FURTHER INFORMATION CONTACT:** W. Brad Smith, Science Policy, Planning, Information and Inventory Staff by phone at (703) 605-4177 or by e-mail to [bsmith2@fs.fed.us](mailto:bsmith2@fs.fed.us).

**SUPPLEMENTARY INFORMATION:** Through its research organization, the Forest Service conducts continuous State-wide inventories of the Nation's forest resources to ascertain trends in the extent, condition, ownership, quantity, and quality of the forest resources as required by the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1600, 1641-1648). This information is collected in the Forest Inventory and Analysis Database. Forest statistics and subsequent analyses are released as State, Regional, and National reports and are based on data collected at sample locations on all land ownerships across the United States. Access to Forest Inventory and Analysis (FIA) data is generally available to the public through direct electronic links within 6 months for standard plots and within 12 months for forest health plots after completion of the annual field data collection season for each State.

The direction adopted in the interim directive (ID) provides for increased accuracy of publicly available plot locations from plus or minus 1 mile, to plus or minus one-half mile. Due to the increased spatial precision of data locations, additional masking measures are now necessary to ensure data privacy required by the Food Security Act. In addition, the ID provides further guidance concerning agency objectives and policy for the FIA program; direction for the use of authorized agents; and procedures to follow when releasing FIA data and information.

Dated: August 29, 2003.

**Robert Lewis, Jr.,**

*Deputy Chief, Research and Development.*

[FR Doc. 03-22667 Filed 9-4-03; 8:45 am]

**BILLING CODE 3410-11-P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed Additions

**AGENCY:** Committee for Purchase from People Who Are Blind or Severely Disabled.

**ACTION:** Proposed additions to Procurement List.

**SUMMARY:** The Committee is proposing to add to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

*Comments Must Be Received On or Before:* October 5, 2003.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

**FOR FURTHER INFORMATION CONTACT:** Sheryl D. Kennerly, (703) 603-7740.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments of the proposed actions. If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each product or service will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the products and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

### End of Certification

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

#### Products

*Product/NSN:* C Shell CD Cases  
7045-00-NIB-0181

7045-00-NIB-0189  
*NPA:* Wiscraft Inc.—Wisconsin Enterprises for the Blind, Milwaukee, Wisconsin  
*Contract Activity:* Office Supplies & Paper Products Acquisition Center, New York, New York  
*Product/NSN:* Envelope, Inter-Departmental, Colored  
 7530-01-498-1086—Blue Kraft  
 7530-01-498-1088—Red Kraft  
 7530-01-498-1089—Yellow Kraft  
*NPA:* Gateway Community Industries, Inc., Kingston, New York  
*Contract Activity:* Office Supplies & Paper Products Acquisition Center, New York, New York  
*Product/NSN:* Maritime Load Carriage System Kit (MLCS)  
 8415-00-NSH-0658  
*NPA:* Chautauqua County Chapter, NYSARC, Jamestown, New York  
*Contract Activity:* U.S. Army Robert Morris Acquisition Center, Natick, Massachusetts

#### Services

*Service Type/Location:* Custodial Services, VA Outpatient Clinic, Daytona Beach, Florida  
*NPA:* ACT CORP., Daytona Beach, Florida  
*Contract Activity:* North Florida/South Georgia Veterans Health System, Gainesville, Florida  
*Service Type/Location:* Duplication and Copy Machine Operation  
 GSA 10 Causeway Street, 9th Floor, Boston, Massachusetts  
*NPA:* Morgan Memorial Goodwill Industries, Boston, Massachusetts  
*Contract Activity:* GSA Region 1, Boston, Massachusetts  
*Service Type/Location:* Janitorial/Custodial Leetown Science Center, Kearneysville, West Virginia  
*NPA:* Job Squad, Inc., Clarksburg, West Virginia  
*Contract Activity:* U.S. Geological Survey, Reston, Virginia  
*Service Type/Location:* Janitorial/Custodial Minton-Capehart Federal Building, Indianapolis, Indiana  
*NPA:* GW Commercial Services, Inc., Indianapolis, Indiana  
*Contract Activity:* GSA, Public Buildings Service (5P), Chicago, Illinois  
*Service Type/Location:* Storage, Handling & Distribution of Consumer Labeling Initiative, Read the Label First! Promotional Items  
 Environmental Protection Agency, Washington, DC  
*NPA:* Virginia Industries for the Blind, Charlottesville, Virginia  
*Contract Activity:* Environmental Protection Agency, Washington, DC  
*Service Type/Location:* Telephone Switchboard Operations  
 VA Medical Center, Kansas City, Missouri  
*NPA:* Alphapointe Association for the Blind, Kansas City, Missouri  
*Contract Activity:* VA Heartland Network 15,

Leavenworth, Kansas

**Sheryl D. Kennerly,**  
*Director, Information Management.*  
 [FR Doc. 03-22674 Filed 9-4-03; 8:45 am]  
**BILLING CODE 6353-01-P**

### COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

#### Procurement List; Additions

**AGENCY:** Committee for Purchase from People Who Are Blind or Severely Disabled.

**ACTION:** Additions to procurement list.

**SUMMARY:** This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**EFFECTIVE DATE:** October 5, 2003.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202-3259.

**FOR FURTHER INFORMATION CONTACT:** Sheryl D. Kennerly, (703) 603-7740.

**SUPPLEMENTARY INFORMATION:** On June 27, July 3, and July 11, 2003, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (68 FR 38288, 39894, and 41297/41298) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

#### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish

the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the products and services proposed for addition to the Procurement List.

#### End of Certification

Accordingly, the following products and services are added to the Procurement List:

#### Products

*Product/NSN:* Belt, General Officers, Leather, Black  
 8440-00-205-2509—Size 44  
 8440-00-205-2510—Size 28  
 8440-00-205-2511—Size 29  
 8440-00-205-2512—Size 30  
 8440-00-205-2513—Size 31  
 8440-00-205-2514—Size 32  
 8440-00-205-2515—Size 33  
 8440-00-205-2516—Size 34  
 8440-00-205-2517—Size 35  
 8440-00-205-2518—Size 36  
 8440-00-205-2519—Size 37  
 8440-00-205-2520—Size 38  
 8440-00-205-2521—Size 39  
 8440-00-205-2522—Size 40  
 8440-00-205-2523—Size 41  
 8440-00-205-2524—Size 42  
 8440-00-205-2525—Size 43  
*NPA:* Stone Belt ARC, Inc., Bloomington, Indiana.  
*Contract Activity:* Defense Supply Center Philadelphia, Philadelphia, Pennsylvania.  
*Product/NSN:* Folder, Classification, Pressboard  
 7530-00-NIB-0672 (Legal Size—1 Divider/4 Part—Light Blue)  
 7530-00-NIB-0673 (Legal Size—1 Divider/4 Part—Red)  
 7530-00-NIB-0674 (Legal Size—1 Divider/4 Part—Dark Blue)  
 7530-00-NIB-0675 (Legal Size—1 Divider/4 Part—Green)  
 7530-00-NIB-0676 (Legal Size—1 Divider/4 Part—Yellow)  
 7530-00-NIB-0679 (Letter Size—2 Divider/6 Part—Gray/Green)  
*NPA:* Georgia Industries for the Blind, Bainbridge, Georgia.  
*Contract Activity:* Office Supplies & Paper Products Acquisition Center, New York, New York.

#### Services

*Service Type/Location:* Grounds Maintenance/Vegetation Control Housing and Station Areas, Fallon Naval Air Station, Fallon, Nevada  
*NPA:* High Sierra Industries, Inc., Reno, Nevada  
*Contract Activity:* Engineering Field Activity NW, Fallon Field Office, Fallon, Nevada  
*Service Type/Location:* Janitorial/Custodial Basewide, Fort McCoy, Wisconsin  
*NPA:* Challenge Unlimited, Inc., Alton, Illinois  
*Contract Activity:* Department of the Army, Fort McCoy, Wisconsin

This action does not affect current contracts awarded prior to the effective

date of this addition or options that may be exercised under those contracts.

**Sheryl D. Kennerly,**

*Director, Information Management.*

[FR Doc. 03-22675 Filed 9-4-03; 8:45 am]

BILLING CODE 6353-01-P

## COMMISSION ON CIVIL RIGHTS

### Sunshine Act; Notice of Meeting

**AGENCY:** Commission on Civil Rights.

**DATE AND TIME:** Friday, September 12, 2003, 9:30 a.m.

**PLACE:** U.S. Commission on Civil Rights, 624 Ninth Street, NW., Room 540, Washington, DC 20425.

**STATUS:**

#### Agenda

- I. Approval of Agenda.
- II. Approval of Minutes of July 18, 2003 Meeting.
- III. Announcements.
- IV. Staff Director's Report.
- V. State Advisory Committee Interim Appointment for Illinois.
- VI. FY-2005 Budget Estimate to OMB.
- VII. "Not in My Backyard: Executive Order 12898 and Title VI as Tools for Achieving Environmental Justice" Report.

11 a.m. Presentation on Native Americans and the South Dakota Criminal Justice System.

**FOR FURTHER INFORMATION CONTACT:** Les Jin, Press and Communications (202) 376-7700.

**Debra A. Carr,**

*Deputy General Counsel.*

[FR Doc. 03-22812 Filed 9-3-03; 3:26 pm]

BILLING CODE 6335-01-M

## 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:* National Oceanic and Atmospheric Administration (NOAA).  
*Title:* Alaska Region Permit Family of Forms.

*Form Number(s):* None.

*OMB Approval Number:* 0648-0206.

*Type of Request:* Regular submission.

*Burden Hours:* 483.

*Number of Respondents:* 889.

*Average Hours Per Response:* 21

minutes for a vessel or processor permit;

30 minutes for a salmon permit; 20 hours for an exempted fishing permit; 5 hours for an exempted fishing permit progress report; and 10 hours for an exempted fishing permit final report.

*Needs and Uses:* This collection of information is used to monitor and manage participation in groundfish fisheries by the National Marine Fisheries Service, Alaska Region and consists of the following permits: Federal fisheries permit, Federal processor permit, High seas power troller salmon permit, and exempted fishing permit. The permit affords identification of participants, harvest gear types, descriptions of vessels or shoreside facilities, and expected activity levels. Identification of the participants and expected activity levels is needed to measure the consequences of management controls, and is an effective tool in the enforcement of other fishery regulations.

*Affected Public:* Business or other for-profit organizations, individuals or households.

*Frequency:* On occasion, triennial, and variable.

*Respondent's Obligation:* Mandatory.

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

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto: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, e-mail address [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov) or fax to (202) 395-7285.

Dated: August 28, 2003.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 03-22573 Filed 9-4-03; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-845, A-122-847]

### Notice of Final Determinations of Sales at Less Than Fair Value: Certain Durum Wheat and Hard Red Spring Wheat from Canada

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

**ACTION:** Notice of Final Determinations of Antidumping Duty Investigations.

**SUMMARY:** On May 8, 2003, the Department of Commerce published the preliminary determinations in the antidumping duty investigations of durum wheat and hard red spring wheat from Canada. We gave interested parties an opportunity to comment on the preliminary determinations. Based upon the results of verification and our analysis of the comments received, we have made certain changes to the margin calculations presented in the final determinations of these investigations. We continue to find that durum wheat and hard red spring wheat from Canada were sold in the United States below normal value during the period of investigation. The final weighted-average dumping margins are listed below in the section entitled "Continuation of Suspension of Liquidation."

**EFFECTIVE DATE:** September 5, 2003.

**FOR FURTHER INFORMATION CONTACT:** Julie Santoboni or Cole Kyle, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-4194 or (202) 482-1503, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 8, 2003, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary determinations in its investigations of durum wheat and hard red spring wheat from Canada (*Notice of Preliminary Determinations of Sales at Less Than Fair Value: Certain Durum Wheat and Hard Red Spring Wheat From Canada*, 68 FR 24707 (May 8, 2003) ("Preliminary Determinations")).

Since the Preliminary Determinations, the following events have occurred:

In May and June 2003, we conducted verifications of the sales and cost of production ("COP") questionnaire responses submitted by the Canadian Wheat Board ("CWB") and Canadian

hard red spring ("HRS") wheat farmers at the CWB's headquarters, at the offices Meyers Norris Penny LLP and at certain farm locations. We issued verification reports in July 2003. We received case briefs from the petitioners<sup>1</sup> and the CWB on July 30, 2003. We received rebuttal briefs from the petitioners and the CWB on August 5, 2003.

### Scope of Investigations

For purposes of these investigations, the products covered are (1) durum wheat and (2) hard red spring wheat.

#### 1. Durum Wheat

Imports covered by this investigation are all varieties of durum wheat from Canada. This includes, but is not limited to, a variety commonly referred to as Canada Western Amber Durum. The merchandise subject to this investigation is currently classifiable under the following Harmonized Tariff Schedule of the United States ("HTSUS") subheadings: 1001.10.00.10, 1001.10.00.91, 1001.10.00.92, 1001.10.00.95, 1001.10.00.96, and 1001.10.00.99. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

#### 2. Hard Red Spring Wheat

Imports covered by this investigation are all varieties of hard red spring wheat from Canada. This includes, but is not limited to, varieties commonly referred to as Canada Western Red Spring, Canada Western Extra Strong, and Canada Prairie Spring Red. The merchandise subject to this investigation is currently classifiable under the following HTSUS subheadings: 1001.90.10.00, 1001.90.20.05, 1001.90.20.11, 1001.90.20.12, 1001.90.20.13, 1001.90.20.14, 1001.90.20.16, 1001.90.20.19, 1001.90.20.21, 1001.90.20.22, 1001.90.20.23, 1001.90.20.24, 1001.90.20.26, 1001.90.20.29, 1001.90.20.35, and 1001.90.20.96. This investigation does not cover imports of wheat that enter under the subheadings 1001.90.10.00 and 1001.90.20.96 that are not classifiable as hard red spring wheat. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

<sup>1</sup> The petitioners are the North Dakota Wheat Commission ("NDWC") (hard red spring wheat), the Durum Growers Trade Action Committee (durum wheat), and the U.S. Durum Growers Association (durum wheat).

### Scope Comments

We have received several requests for exclusions from and clarifications of the scope of these investigations. On April 24, 2003, Montana Flour & Grains and Kamut International requested that the Department exclude Khorasan wheat from the scope of these investigations. The Government of Canada ("GOC") made the same request on July 31, 2003. On June 27, 2003, the Organic Trade Association requested that the Department exclude organically produced wheat from the scope of these investigations. On July 29, 2003, Cargill, Incorporated ("Cargill") requested that the Department clarify the scope of these investigations and specifically exclude from the scope Canadian Eastern Soft Red Winter Wheat and Canadian Eastern Hard Red Winter Wheat. On July 30, 2003, the petitioners submitted comments on all but the Cargill submission and also raised an additional issue concerning Canadian feed wheat. We have considered these requests and the comments from interested parties. We have determined that organically grown wheat is covered by the scope of these investigations and that the scope of the hard red spring investigation should be clarified by adding the following language to the scope: "This investigation does not cover imports of wheat that enter under the subheadings 1001.90.10.00 and 1001.90.20.96 that are not classifiable as hard red spring wheat." For a complete discussion of these scope issues, see the August 28, 2003, *Scope Exclusion and Clarification Requests: Khorasan Wheat, Organic Wheat, Canadian Eastern Soft Red Winter Wheat, Canadian Eastern Hard Red Winter Wheat, and Canadian Feed Wheat* memorandum, which is on file in the Central Records Unit, Room B-099 of the Department ("CRU").

### Period of Investigation

The period of investigation ("POI") is July 1, 2001, through June 30, 2002.

### Use of Facts Available

As explained in the *Preliminary Determinations*, we based the COP in part on the use of facts otherwise available, in accordance with section 776 of the Tariff Act of 1930, as amended effective January 1, 1995 ("the Act"), by the Uruguay Round Agreements Act ("URAA").

Of the twenty-seven producers selected, one producer (*i.e.*, cost respondent 2)<sup>2</sup> chose not to respond to

<sup>2</sup> Due to the proprietary nature of the name of each producer, we have assigned a number to each farmer ("cost respondent") that will be used throughout this notice when referring to that

the Department's questionnaire, and two other producers (*i.e.*, cost respondents 10 and 27) did not respond based on extenuating circumstances discussed below. Therefore, as described in detail below, because these producers have not provided the necessary information on the record to calculate the simple-average COP within their respective stratum, the use of facts otherwise available is warranted.

Section 776(a)(2) of the Act provides that, if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title.<sup>3</sup> Section 776(b) of the Act further provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information.

With respect to cost respondent 2, this producer chose not to respond to the Department's questionnaire. As a result, use of facts available is appropriate pursuant to section 776(a)(2)(A) of the Act. In accordance with section 776(b) of the Act, if the Department finds that "an interested party failed to cooperate

specific farmer. A list or code key identifying the name associated with each cost respondent number can be found in the *Cost of Production and Constructed Value Adjustments for the Preliminary Determination* dated May 1, 2003 at Attachment 1, which is on file in the CRU.

<sup>3</sup> Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority" if the information is timely, can be verified, and is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information, if it can do so without undue difficulties.

by not acting to the best of its ability to comply with a request for information,” an adverse inference may be used in determining the facts otherwise available. In the instant case, cost respondent 2 did not cooperate to the best of its ability by failing to provide any of the information requested in the section D cost questionnaire with no rationale for why it could not provide such information when other producers could. Therefore, as adverse facts available for the final determination on HRS wheat for this cost respondent, we have continued to use the higher of the COP from the petition for the same province and soil type or the highest reported cost of other cost respondents within the same stratum. Based on our comparison of the amounts, we found that the reported cost of one of the other cost respondents within the same stratum was higher. As a result, we used the other respondent’s COP within the same stratum as the surrogate cost for cost respondent 2.

Both cost respondents 10 and 27 did not respond to the Department’s cost questionnaire based on extenuating circumstances. With respect to cost respondent 10, the CWB explained that this farmer had deliveries of HRS wheat to the CWB during the POI, but did not produce HRS wheat during the 2001 growing season. However, cost respondent 10 did have an affiliated party that produced HRS wheat during the cost reporting period. Therefore, as a surrogate, cost respondent 10 reported its affiliate’s COP for the cost reporting period. We note that this affiliate was not considered a cost respondent in the sample selection and, as such, we determined it would not be appropriate to include the affiliate’s COP in our overall calculation of COP.

Similar to cost respondent 10, cost respondent 27 did not provide cost data for the 2001 growing season because the information was not available. Specifically, cost respondent 27 sold its farming operations and ceased farming. Because neither cost respondent 10 nor 27 had information available that would enable them to respond to the Department’s cost questionnaire and in the case of cost respondent 10 they attempted to provide some cost information, we applied neutral facts

available for the HRS wheat preliminary determination pursuant to sections 776(a)(2)(A) and (B) of the Act. As neutral facts available, we have relied on the cost data submitted by the other cost respondents within the same stratum. Therefore, we have not included an amount for these cost respondents in the simple average calculation within their respective stratum.

**Fair Value Comparisons**

We calculated export price and normal value based on the same methodology used in the Preliminary Determinations with the following exceptions:

- We based our calculations on the CWB’s updated and verified sales data. We used the revised sales data submitted by the CWB on June 20, 2003, and the revisions stated in the CWB’s July 9, 2003, submission.
- We revised the level of trade (“LOT”) classification to include only producer direct sales in LOTH/U2.
- We corrected a clerical error in the calculation of the LOT adjustment.
- We revised the cost of production calculation for HRS wheat to include certain changes noted in the August 28, 2003 *Cost of Production and Constructed Value Adjustments for the Final Determinations Canadian Wheat Board Cost Respondents Memorandum* (“*Final Determination Cost Calculation Memorandum*”)

For a complete discussion of these changes, see the August 28, 2003, *Issues and Decision Memorandum for the Final Determinations of the Antidumping Duty Investigations of Certain Durum Wheat and Hard Red Spring Wheat from Canada* (“*Decision Memorandum*”), *Durum Wheat Final Determination Calculation Memorandum for the Canadian Wheat Board, Hard Red Spring Wheat Final Determination Calculation Memorandum for the Canadian Wheat Board, and the Final Determination Cost Calculation Memorandum*.

**Currency Conversions**

We made currency conversions in accordance with section 773A of the Act in the same manner as in the preliminary determinations.

**Verifications**

As provided in section 782(i)(1) of the Act, we verified the information submitted by the CWB and selected farmers during May and June 2003. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the CWB and certain individual cost respondents (*i.e.*, farmers).

**Analysis of Comments Received**

All issues raised in the petitioners’ and the CWB’s case briefs are addressed in the *Decision Memorandum* which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which the petitioners and the CWB have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in these investigations and the corresponding recommendations in this public memorandum which is on file in the Department’s CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/summary/list.htm>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

**Continuation of Suspension of Liquidation**

In accordance with section 733(d)(2) of the Act, we are directing the U.S. Bureau of Customs and Border Protection (“BCBP”) to continue to suspend liquidation of all imports of subject merchandise from Canada that are entered, or withdrawn from warehouse, for consumption on or after May 8, 2003, the date of publication of the *Preliminary Determinations* in the **Federal Register**. The BCBP shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

DURUM WHEAT

Exporter/Manufacturer	Weighted-Average Margin Percentage
Canadian Wheat Board .....	8.26
All Others .....	8.26

## HARD RED SPRING WHEAT

Exporter/Manufacturer	Weighted-Average Margin Percentage
Canadian Wheat Board .....	8.87
All Others .....	8.87

**ITC Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our determinations. As our final determinations are affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue antidumping duty orders.

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These determinations are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: August 28, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

**APPENDIX****List of Comments in the Issues and Decision Memorandum Sales Issues**

*Comment 1:* Particular Market Situation  
*Comment 2:* Inclusion of Certain Product Characteristics in Model Match Criteria

*Comment 3:* Date of Sale  
*Comment 4:* Exclusion of Channel 6 Sales from LOTH 1

*Comment 5:* Treatment of Sales Made Above Normal Value  
*Comment 6:* Clerical Error in the Calculation of the LOT Adjustment

**Common Cost Issues**

*Comment 7:* Farmer Estimates and Representations

*Comment 8:* Representative COPs  
*Comment 9:* Eliminate Outliers in Calculating the Average COP

*Comment 10:* Collapsing

*Comment 11:* Seed Costs

*Comment 12:* Imputed Labor Costs

*Comment 13:* Personal Expenses

*Comment 14:* Overhead Allocation Basis

*Comment 15:* Financial Statement

Depreciation

*Comment 16:* Affiliated Party

Transactions Received Methodology

*Comment 17:* Costs of Services Provided

to Outside Parties

*Comment 18:* Land Use

*Comment 19:* Crop Insurance Proceeds

*Comment 20:* Straw By-Product Offset

*Comment 21:* G&A and Interest Expense

Denominators

*Comment 22:* Value of Bookkeeping

Services

**Farmer Specific Issues****Farmer 1**

*Comment 23:* Production Quantities

*Comment 24:* Well Expenses

*Comment 25:* Over-Excluded Livestock

Costs

**Farmer 3**

*Comment 26:* Imputed Seed Costs

*Comment 27:* Actual Labor Costs

*Comment 28:* Chemical Costs

*Comment 29:* Revenue from Green

Barley

*Comment 30:* Country Elevator Charges

**Farmer 4**

*Comment 31:* Imputed Interest Expense

*Comment 32:* Short-Term Interest

Income

*Comment 33:* Overhead Expenses

Allocation Between Crops

*Comment 34:* Custom Work Costs

*Comment 35:* Land Use Cost

*Comment 36:* Machinery Repair

Expenses

**Farmer 5**

*Comment 37:* Depreciation Expense of the Omitted Asset

*Comment 38:* Labor Cost for Non-Crop

Activity

**Farmer 6**

*Comment 39:* Trucking Expense

**Farmer 7**

*Comment 40:* Unsupported Corrections to Normal Records

*Comment 41:* Reallocate Fertilizer Costs

*Comment 42:* Interest Expense Offset

*Comment 43:* Capitalization of Costs

**Farmer 8**

*Comment 44:* Imputed Seed

*Comment 45:* Production Quantity

*Comment 46:* Offset to Fertilizer Costs

**Farmer 9**

*Comment 47:* Depreciation Expense

**Farmer 11**

*Comment 48:* Fixed Assets

*Comment 49:* Land Use Costs

**Farmer 12**

*Comment 50:* Seed Cleaning Costs

*Comment 51:* Production Quantity

*Comment 52:* Custom Work Costs

*Comment 53:* Interest Charge on a Trade

Payable Account

**Farmer 14**

*Comment 54:* Overstatement of Other

Crop Costs

*Comment 55:* Understatement of

Fertilizer Costs

*Comment 56:* Overhead Adjustment

*Comment 57:* Interest Expense

*Comment 58:* G&A Expense

**Farmer 15**

*Comment 59:* Tax Return Errors

*Comment 60:* Omitted Expenses

*Comment 61:* Livestock Costs

**Farmer 16**

*Comment 62:* Input Values for Seed,

Fertilizer, and Chemicals

*Comment 63:* Cost Allocation Basis

**Farmer 17**

*Comment 64:* Omitted Actual Labor Cost

**Farmer 19**

*Comment 65:* Imputed Seed Costs

*Comment 66:* Depreciation Should be

Included in Fixed Overhead

*Comment 67:* Revised Cash Ticket

Analysis is Correctly Reported

*Comment 68:* Crop Insurance Profit

Factor and Recoveries Should be

Recalculated

**Farmer 21**

*Comment 69:* Fertilizer and Chemical

Costs

*Comment 70:* Capitalization of Costs

*Comment 71:* Costs Not Associated With

the Farmers' Livestock Operations

**Farmer 22**

*Comment 72:* Overhead Allocations,

New Factual Information

**Farmer 23**

*Comment 73:* G&A Expenses

*Comment 74: Production Quantities*

**Farmer 26**

*Comment 75: Exclusion of the 2000*

*Seed from the 2001 Production Quantity*

*Comment 76: Improper Allocation of the Cost of Chemicals*

[FR Doc. 03-22661 Filed 9-4-03; 8:45 am]

BILLING CODE 3510-DS-S

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

A-570-848

**Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Notice of Intent to Rescind New Shipper Administrative Review**

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

**SUMMARY:** The Department of Commerce (the Department) is conducting a new shipper review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC) in response to a request from Zhoushan Huading Seafood Co., Ltd. ("Zhoushan Huading"). The period of review (POR) is September 1, 2001, through August 31, 2002. We have preliminarily determined that the new shipper review of Zhoushan Huading should be rescinded because the sale was not *bona fide*. Much of the information upon which we relied to analyze the *bona fides* is business proprietary, therefore our full analysis is set forth in the *Memorandum to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, Group III: Freshwater Crawfish Tail Meat from the People's Republic of China: Analysis of Zhoushan Huading's New Shipper Transaction*, dated August 28, 2003 (*Zhoushan Huading Memo*), which is on file in the Central Records Unit, room B-099 of the main Commerce Building. Interested parties are invited to comment on this preliminary rescission determination.

**EFFECTIVE DATE:** September 5, 2003.

**FOR FURTHER INFORMATION CONTACT:** Douglas Kirby or Thomas Gilgunn, Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3782 or (202) 482-4236, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On September 30, 2002, the Department received a properly filed

request for a new shipper review, in accordance with section 751(a)(2)(B) of the Act and section 351.214(b),(c) of the Department's regulations, from Zhoushan Huading under the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China. On October 18, 2002, the Department sought clarification in regard to the identification of Zhoushan Huading's reported buyer for the shipment of crawfish tail meat under review, since the reported buyer identified on Zhoushan Huading's commercial invoice and bill of lading was different from the importer of record identified on the Customs entry summary submitted with the request. On October 23, 2002, Zhoushan Huading explained that its shipment of crawfish tail meat was sold initially to the reported buyer, and the reported buyer then took title of the shipment of crawfish tail meat from Zhoushan Huading and transferred ownership of the shipment of crawfish tail meat and the associated bill of lading to the importer of record.

The Department determined that the request met the requirements stipulated in section 351.214 of the regulations. On November 7, 2002, the Department published its initiation of this new shipper review for the period September 1, 2001, through August 31, 2002. See *Freshwater Crawfish Tail Meat From the People's Republic of China: Initiation of New Shipper Antidumping Administrative Reviews*, 67 FR 67822 (November 7, 2002).

On January 6, 2003, the Department received Zhoushan Huading's section A, C and D questionnaire responses. On March 6, 2003, the Department issued its first supplemental questionnaire to Zhoushan Huading. On March 31, 2003, Zhoushan Huading submitted its response to the first supplemental questionnaire. On April 2, 2003, the Department issued an importer questionnaire to the reported buyer. On May 19, 2003, the Department received a response to the importer questionnaire from the importer of record. On May 6, 2003, the Department issued its second supplemental questionnaire to Zhoushan Huading. On May 20, 2003, Zhoushan Huading submitted its response to the second supplemental questionnaire. On May 28, 2003, the Department issued supplemental questionnaires to both the reported buyer and the importer of record. On June 9, 2003, the reported buyer and the importer of record requested a one week extension to respond to the supplemental questionnaires. The Department extended the deadline to June 16, 2003. Neither the reported

buyer or the importer of record has yet submitted a response to the importer supplemental questionnaire. On July 23, 2003, the Department issued a third supplemental questionnaire to Zhoushan Huading. On August 6, 2003, Zhoushan Huading submitted its response to the third supplemental questionnaire.

On April 14, 2003, the Department extended the due date for the preliminary results of this new shipper review by 120 days until August 28, 2003. See *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Extension of Time Limit of Preliminary Results of New Shipper Review*, 68 FR 18946 (April 14, 2003).

**Scope of the Antidumping Duty Order**

The product covered by this order is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 1605.40.10.10 and 1605.40.10.90, which are the new HTS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by the U.S. Customs Service in 2000, and HTS items 0306.19.00.10 and 0306.29.00, which are reserved for fish and crustaceans in general. The HTS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive.

**Preliminary Intent to Rescind**

Concurrent with this notice, we are issuing our memorandum detailing our analysis of the *bona fides* of Zhoushan Huading's U.S. sale and our preliminary decision to rescind based on the totality of the circumstances of the sale. Although much of the information relied upon by the Department to analyze the issues is business proprietary, the Department based its determination that the new shipper sale made by Zhoushan Huading was not *bona fide* on the following: 1) the price and quantity for Zhoushan Huading's sale of crawfish tail meat were atypical vis-a-vis other exports from the PRC of the subject merchandise into the United States during the period of review, 2)

there are conflicting accounts as to who purchased the crawfish tail meat and who paid Zhoushan Huading for the shipment, 3) there remains uncertainty in regard to the commercial reasonableness of the sale, 4) there are inconsistencies in the terms of sale, and 5) the Department has been unable to establish that the importing parties are actual commercial entities.

#### Schedule for Final Results of Review

Any interested party may request a hearing within 30 days of publication of this notice in accordance with section 351.310(c) of the Department's regulations. Any hearing would normally be held 37 days after the publication of this notice, or the first workday thereafter, at the U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Requests for a public hearing should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

Unless otherwise notified by the Department, interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 351.309(c)(ii) of the Department's regulations. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case brief is filed. If a hearing is held, an interested party must limit its presentation only to arguments raised in its briefs. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

The Department will issue the final results of this new shipper review, which will include the results of its analysis of issues raised in the briefs, within 90 days from the date of the preliminary results, unless the time limit is extended.

#### Notification

At the completion of this new shipper review, either with a final rescission or a notice of final results, the Department

will notify the U.S. Bureau of Customs and Border Protection ("BCBP") that bonding is no longer permitted to fulfill security requirements for shipments by the exporter/producer combination Zhoushan Huading of freshwater crawfish tail meat from the PRC entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of the final rescission or results notice in the **Federal Register**. After the publication of the final rescission notice, a cash deposit of 223.01 percent *ad valorem* shall be collected for any entries exported/produced by Zhoushan Huading. Should the Department reach a final result other than a rescission, an appropriate antidumping duty rate will be calculated for both assessment and cash deposit purposes.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO material or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanctions.

This new shipper review and this notice are published in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: August 28, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc. 03-22663 Filed 9-4-03; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-848]

#### Freshwater Crawfish Tail Meat From the People's Republic of China: Rescission of Antidumping Duty New Shipper Reviews

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

**SUMMARY:** On November 7, 2002 the Department published the initiation of new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China covering the period September 1, 2001, through August 31, 2002. *See Freshwater Crawfish Tail Meat From the*

*People's Republic of China: Initiation of Antidumping New Shipper Reviews* (67 FR 67822) ("*New Shipper Initiation*"). These new shipper reviews covered four exporters: Zhoushan Huading Seafood Co., Ltd. (Zhoushan Huading); Hubei Qianjiang Houhu Frozen & Processing Factory (Hubei Houhu); Qingdao Jin Yong Xiang Aquatic Foods Co., Ltd. (Qingdao JYX); and Siyang Foreign Trading Corporation (Siyang). For the reasons discussed below, we are rescinding the new shipper reviews of Hubei Houhu and Qingdao JYX.

**EFFECTIVE DATE:** September 5, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Scott Lindsay or Thomas Gilgann at (202) 482-0780 and (202) 482-4236, respectively; AD/CVD Enforcement, Office 7, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

#### Background

On November 7, 2002, the Department published the initiation of antidumping new shipper reviews of Qingdao JYX, Hubei Houhu, Zhoushan Huading, and Siyang, covering the period September 1, 2001, through August 31, 2002. *See New Shipper Initiation*. On April 14, 2003, the Department extended the time limit for the preliminary results of these new shipper reviews. *See Notice of Extension of Time Limit of Preliminary Results of New Shipper Reviews: Freshwater Crawfish Tail Meat From the People's Republic of China*, 68 FR 18946 (April 14, 2003).

On January 6, 2003, the Department received Hubei Houhu's questionnaire responses regarding its corporate structure, sales information, and factors of production. A supplemental questionnaire was issued by the Department requesting additional sales information; Hubei Houhu responded on March 31, 2003. The Department also issued a questionnaire to Hubei Houhu's importer. Hubei Houhu's importer submitted their response on March 14, 2003.

On January 7, 2003, the Department received Qingdao JYX's questionnaire responses regarding its corporate structure, sales information, and factors of production. Three supplemental questionnaires and one importer questionnaire were issued by the Department requesting additional sales information; Qingdao JYX responded to these on March 31, 2003, June 12, 2003, July 2, 2003, and July 28, 2003.

On June 23, 2003 the Department rescinded the review on Siyang. *See*

*Freshwater Crawfish Tail Meat From the People's Republic of China: Rescission of Antidumping Duty New Shipper Review*, 68 FR 37115 (June 28, 2003). With respect to Zhoushan Huading, a preliminary notice of intent to rescind is being issued concurrently with this final rescission notice on Qingdao JYX and Hubei Houhu. See *Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Notice of Intent to Rescind New Shipper Administrative Review*, signed August 28, 2003.

#### Analysis of New Shipper Reviews

On August 15, 2003, the Department issued a memorandum detailing our analysis of the bona fides of Hubei Houhu's U.S. sale and our intent to rescind because we preliminarily determined that Hubei Houhu's U.S. sales were not bona fide based on the totality of the circumstances of the sale. See *Memorandum from Scott Lindsay through Barbara E. Tillman to Joseph A. Spetrini; Freshwater Crawfish Tail Meat from The People's Republic of China: Whether the Sale in the New Shipper Review of Hubei Houhu is Bona Fide*, dated August 15, 2003 ("*Hubei Houhu Rescission Memo*"). In the memorandum, the Department preliminarily determined that the new shipper sale made by Hubei Houhu was not bona fide because (1) the pricing of Hubei Houhu's single sale is artificially high, and otherwise not commercially reasonable; (2) the extremely small quantity of the sale is atypical of normal business practices, and otherwise commercially unreasonable; and (3) the importer cannot resell the subject merchandise for a profit, and has otherwise not acted in a commercially reasonable manner. *Id.* at 3.

On August 15, 2003, the Department issued a memorandum detailing our analysis of the bona fides of Qingdao JYX's U.S. sale and our intent to rescind because we concluded that Qingdao JYX's U.S. sale was not bona fide based on the totality of the circumstances of the sale. See *Memorandum from Barbara E. Tillman to Joseph A. Spetrini; Freshwater Crawfish Tail Meat from The People's Republic of China: Intent to Rescind the New Shipper Review of Qingdao Jin Yong Xiang*, dated August 15, 2003 ("*Qingdao JYX Rescission Memo*"). In the memorandum, the Department preliminarily determined that the new shipper sale made by Qingdao JYX was not bona fide because (1) the price and quantity of Qingdao JYX's sale is atypical of normal business practices, and otherwise commercially unreasonable; (2) an unusual sales process governed this sale, specifically

the importer's intent to give this tail meat away as samples rather than resell it for profit; and (3) the shipment was found by the Food and Drug Administration (FDA) to be poisonous, and was destroyed under instructions from the FDA. *Id.* at 3.

Our analysis of the sales under review, and our full reasoning for determining the sales are not bona fide, are presented in the *Hubei Houhu Rescission Memo*, the *Qingdao JYX Rescission Memo*, and the *Memorandum to Barbara E. Tillman: Freshwater Crawfish Tail Meat from The People's Republic of China: the Bona Fide Issue in the New Shipper Review of Qingdao Jin Yong Xiang Aquatic Foods Co., Ltd.* ("*Rescission Comments Memo*").

#### Comments

We gave the parties an opportunity to comment on both memoranda. No comments were submitted regarding our intent to rescind the new shipper review of Hubei Houhu. Qingdao JYX submitted comments on August 20, 2003. Petitioners submitted rebuttal comments on August 22, 2003. We have fully addressed the parties' comments in the *Rescission Comments Memo*.

#### Rescission of New Shipper Reviews

We received no comments on our intent to rescind the new shipper review of Hubei Houhu, therefore we are rescinding this new shipper review. We received comments on our intent to rescind the new shipper review of Qingdao JYX. However, our analysis of the comments has not led us to change our decision to rescind the review. See *Rescission Comments Memo*. Therefore, we are also rescinding the new shipper review with respect to Qingdao JYX.

#### Notification

The Department will notify the U.S. Bureau of Customs and Border Protection (Customs) that bonding is no longer permitted to fulfill security requirements for shipments for Hubei Houhu's or Qingdao JYX's freshwater crawfish tail meat from the PRC entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of this rescission notice in the **Federal Register**, and that a cash deposit of 223.01 percent ad valorem should be collected for any entries exported by Hubei Houhu or Qingdao JYX. The Department will also instruct Customs to assess antidumping duties on the entries subject to this new shipper review at the antidumping duty rate in effect on the date of entry.

We are issuing and publishing this determination and notice in accordance

with sections 751(a)(2)(B) and 777(i) of the Act.

Dated: August 28, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc. 03-22664 Filed 9-4-03; 8:45 am]

BILLING CODE 3510-05-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-122-846]

[C-122-848]

#### Final Affirmative Countervailing Duty Determinations: Certain Durum Wheat and Hard Red Spring Wheat from Canada

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

**ACTION:** Notice of Final Affirmative Countervailing Duty Determinations: Certain Durum Wheat and Hard Red Spring Wheat from Canada.

**SUMMARY:** The Department of Commerce has made final determinations that countervailable subsidies are being provided to certain producers and exporters of certain durum wheat and hard red spring wheat from Canada. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section, below.

**EFFECTIVE DATE:** September 5, 2003.

**FOR FURTHER INFORMATION CONTACT:** Audrey Twyman, Stephen Cho, or Daniel Alexy, Office of Antidumping/Countervailing Duty Enforcement, Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3534, (202) 482-3798 and (202) 482-1540, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Petitioners

The petitioners in these investigations are the North Dakota Wheat Commission (hard red spring wheat), United States Durum Growers Association (durum wheat), and the Durum Growers Trade Action Committee (durum wheat) (collectively, the "petitioners").

##### Period of Investigations

The period for which we are measuring subsidies is August 1, 2001 to July 31, 2002, which coincides with the fiscal year of the Canadian Wheat

Board ("CWB"), the sole responding exporter. See 19 CFR § 351.204(b)(2).

### Case History

The following events have occurred since the publication of the preliminary determinations in the **Federal Register** on March 10, 2003. See *Preliminary Affirmative Countervailing Duty Determinations and Alignment of Final Countervailing Duty Determinations with Final Antidumping Duty Determinations: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, (68 FR 11374) ("Preliminary Determinations").

On March 17, 2003, the petitioners submitted ministerial error allegations relating to the *Preliminary Determinations*. The Department of Commerce ("the Department") addressed these ministerial allegations in the April 1, 2003, memorandum to Susan Kuhbach entitled "Ministerial Error Allegations for Preliminary Determination," which is on file in the Department's Central Records Unit in Room B-099 of the main Department building ("CRU"). The Department sent out supplemental questionnaires to the Government of Canada ("GOC") and the CWB on March 18, 2003 and received responses to these supplemental questionnaires between March 27 and April 14, 2003. On May 5, 2003, the Department issued a memorandum entitled "Preliminary Determination for the Initial Payment Guarantee Program" in which the Department preliminarily determined that the GOC's guarantee of the CWB's initial payment to producers does not confer a measurable subsidy on hard red spring or durum wheat. See May 5, 2003, memorandum to Acting Assistant Secretary Joseph A. Spetrini from Deputy Assistant Secretary Jeffrey May which is on file in the CRU. The Department's *Preliminary Determinations* had not addressed this new subsidy allegation raised by the petitioners.

On May 16, 2003, the CWB requested an extension of the final determinations for the dumping and countervailing duty investigations, therefore the Department published a *Notice of Postponement of Final Antidumping Determinations and Extension of Provisional Measures and Postponement of Final Countervailing Duty Determinations: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, (68 FR 35381) on June 13, 2003.

The Department conducted verifications of the questionnaire responses submitted by the GOC, the provincial governments (e.g., the Government of Alberta ("GOA") and the

Government of Saskatchewan ("GOS")), and the CWB from May 5 through May 14, 2003 in Canada. We received case briefs from the GOC, GOA, GOS, CWB and the petitioners between June 20 to 23, 2003. These same parties submitted rebuttal briefs between June 27 to June 30, 2003. We held a hearing in these investigations on July 8, 2003.

### Scope of Investigations

For purposes of these investigations, the products covered are (1) durum wheat and (2) hard red spring wheat.

#### 1. Durum Wheat

Imports covered by this investigation are all varieties of durum wheat from Canada. This includes, but is not limited to, a variety commonly referred to as Canada Western Amber Durum. The merchandise subject to this investigation is currently classifiable under the following Harmonized Tariff Schedule of the United States ("HTSUS") subheadings: 1001.10.00.10, 1001.10.00.91, 1001.10.00.92, 1001.10.00.95, 1001.10.00.96, and 1001.10.00.99. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

#### 2. Hard Red Spring Wheat

Imports covered by this investigation are all varieties of hard red spring wheat from Canada. This includes, but is not limited to, varieties commonly referred to as Canada Western Red Spring, Canada Western Extra Strong, and Canada Prairie Spring Red. The merchandise subject to this investigation is currently classifiable under the following HTSUS subheadings: 1001.90.10.00, 1001.90.20.05, 1001.90.20.11, 1001.90.20.12, 1001.90.20.13, 1001.90.20.14, 1001.90.20.16, 1001.90.20.19, 1001.90.20.21, 1001.90.20.22, 1001.90.20.23, 1001.90.20.24, 1001.90.20.26, 1001.90.20.29, 1001.90.20.35, and 1001.90.20.96. This investigation does not cover imports of wheat that enter under the subheadings 1001.90.10.00 and 1001.90.20.96 that are not classifiable as hard red spring wheat. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

### Scope Comments

Since the Department's *Preliminary Determinations*, we have received several requests for exclusions from and clarifications of the scope of these investigations. On April 24, 2003,

Montana Flour & Grains and Kamut International requested that the Department exclude Khorasan wheat from the scope of these investigations. The GOC made the same request on July 31, 2003. On June 27, 2003, the Organic Trade Association requested that the Department exclude organically produced wheat from the scope of these investigations. On July 29, 2003, Cargill, Incorporated ("Cargill") requested that the Department clarify the scope of these investigations and specifically exclude from the scope Canadian Eastern Soft Red Winter Wheat and Canadian Eastern Hard Red Winter Wheat. On July 30, 2003, the petitioners submitted comments on all but the Cargill submission, and also raised an additional issue concerning Canadian feed wheat. We have considered these requests and the comments from interested parties. We have determined that organically grown wheat is covered by the scope of these investigations and that the scope of the hard red spring investigation should be clarified by adding the following language to the scope: "This investigation does not cover imports of wheat that enter under the subheadings 1001.90.10.00 and 1001.90.20.96 that are not classifiable as hard red spring wheat." For a complete discussion of these scope issues, see the August 28, 2003, *Scope Exclusion and Clarification Requests: Khorasan Wheat, Organic Wheat, Canadian Eastern Soft Red Winter Wheat, Canadian Eastern Hard Red Winter Wheat*, and Canadian Feed Wheat memorandum, which is on file in the CRU.

### Injury Test

Because Canada is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Tariff Act of 1930, as amended ("the Act"), the International Trade Commission ("ITC") is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry. On November 25, 2002, the ITC transmitted to the Department its preliminary determinations finding that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports from Canada of durum and hard red spring wheat. See *Durum and Hard Red Spring Wheat from Canada*, 67 FR 71589 (December 2, 2002).

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to these investigations are addressed in the "Issues and Decision Memorandum for the Final Countervailing Duty

Determinations of the Investigations of Certain Durum Wheat and Hard Red Spring Wheat from Canada” from Jeffrey May, Deputy Assistant Secretary, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, dated August 28, 2003, (“*Decision Memorandum*”), which is hereby adopted by this notice. Attached to this notice as an Appendix is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find

a complete discussion of all issues raised in these investigations and the corresponding recommendations in this public memorandum which is on file in the CRU. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at <http://www.ia.ita.doc.gov/frn/summary/list.htm> under the heading “Canada.” The paper copy and electronic version of the Decision Memorandum are identical in content.

**Suspension of Liquidation**

In accordance with section 705(c)(1)(B)(i) of the Act, we have calculated an individual net subsidy rate for each manufacturer of the subject merchandise. In accordance with sections 777A(e)(2)(B) and 705(c)(5)(A) of the Act, we have set the “all others” rate as CWB’s rate, because it is the only exporter/manufacturer investigated. We determine the total estimated net subsidy rate for the CWB and “all others” to be:

Exporter/Manufacturer	Net Subsidy Rate (Hard Red Spring Wheat)	Net Subsidy Rate (Durum Wheat)
Canadian Wheat Board .....	5.29 percent	5.29 percent
All Others .....	5.29 percent	5.29 percent

As a result of our *Preliminary Determinations* and pursuant to section 705(c)(1)(B)(ii) of the Act, we instructed the U.S. Bureau of Customs and Border Protection (“BCBP”) to suspend liquidation of all entries of durum wheat and hard red spring wheat from Canada which were entered or withdrawn from warehouse, for consumption on or after March 10, 2003, the date of the publication of the *Preliminary Determinations* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the BCBP to discontinue the suspension of liquidation for subject merchandise for countervailing duty purposes entered on or after July 8, 2003, but to continue the suspension of liquidation of entries made from March 10, 2003, through July 7, 2003.

We will issue countervailing duty orders and reinstate the suspension of liquidation under section 706(a) of the Act if ITC issues final affirmative injury determinations, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, these proceedings will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

**ITC Notification**

In accordance with section 705(d) of the Act, we have notified the ITC of our determinations. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to these investigations. We will allow the ITC access to all privileged and business proprietary information in our files,

provided the ITC confirms that it will not disclose such information, either publicly or under an Administrative Protective Order (“APO”), without the written consent of the Assistant Secretary for Import Administration.

**Return or Destruction of Proprietary Information**

In the event that the ITC issues final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

These determinations are published pursuant to sections 703(f) and 777(i) of the Act.

Dated: August 28, 2003.

**James J. Jochum,**  
*Assistant Secretary for Import Administration.*

**APPENDIX**

**List of Comments and Issues in the Decision Memorandum**

*Comment 1:* The Department Should Treat the Government-Leased Railcars Differently from the Government-Owned Railcars.

*Comment 2:* The Provision of Government-Owned and Leased Railcars is Tied to Non-U.S. Markets.

*Comment 3:* The Provision of Rail Cars Does Not Result in an Indirect Subsidy to the CWB.

*Comment 4:* Countervailability of Subsidies Given to Third Party Service Providers.

*Comment 5:* The Governments’ Entrustment or Direction of the Railways to Provide Rail Service.

*Comment 6:* The Provision of Government-Owned and Leased Railcar Confers No Benefit.

*Comment 7:* Measurement of Benefit from the Government-Provided Railcars.

*Comment 8:* The Revenue Cap Does Confer a Benefit.

*Comment 9:* The Rail Freight Revenue Cap Does Not Provide a Financial Contribution.

*Comment 10:* The Department Should Determine That the Revenue Cap Does Not Provide a Financial Contribution Because It is Consistent With Market Principles.

*Comment 11:* The Benefit of the Revenue Cap Extends to All CWB Shipments, Including Shipments to the United States.

*Comment 12:* The Closure Fee for Grain Dependent Branch Lines Confers a Financial Contribution.

*Comment 13:* Impact of the Lending and Initial Payment Guarantees on the CWB’s Cost of Borrowing.

*Comment 14:* The Benchmark.

*Comment 15:* The Borrowing Guarantee is Tied to Non-U.S. Markets.

*Comment 16:* The Department’s Analysis of the Initial Payment Guarantee is Based on Incomplete and Inaccurate Data.

[FR Doc. 03-22662 Filed 9-4-03; 8:45 am]

**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE**

**Patent and Trademark Office**

**Deposit of Biological Materials**

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), 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 the continuing and proposed information collection, 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 November 4, 2003.

**ADDRESSES:** Direct all written comments to Susan K. Brown, Records Officer, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division, 703-308-7400, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313, Attn: CPK 3 Suite 310; by e-mail at [susan.brown@uspto.gov](mailto:susan.brown@uspto.gov); or by facsimile at 703-308-7407.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to the attention of Robert J. Spar, Director, Office of Patent Legal Administration, United States Patent and Trademark Office (USPTO), P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 703-308-5107; or by e-mail at [bob.spar@uspto.gov](mailto:bob.spar@uspto.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The deposit of biological materials as part of a patent application is required by 35 U.S.C. 2(b)(2) and outlined in 37 CFR chapter 1, subpart G, 1.801-809. Every patent must contain a description of the invention sufficient to enable a person (knowledgeable in the relevant science) to make and use the invention

as specified by 35 U.S.C. 112. The term biological includes material that is capable of self-replication either directly or indirectly. When the invention involves a biological material, sometimes words alone cannot sufficiently describe how to make and use the invention in a reproducible or repeatable manner. In such cases, the required biological material must either be known and readily (and continually) available, or be deposited in a suitable depository to meet the enablement and written description requirements of 35 U.S.C. 112.

In cases where a novel microorganism is involved, the USPTO traditionally requires the deposit of a sample with a recognized patent depository in order to meet the above disclosure requirements. When a deposit is necessary, the USPTO collects information to determine whether the depositor is in compliance with the patent statute. This includes a statement proving notification to the interested public on where to obtain samples of the deposits. A viability statement showing that the biological material was tested by the depository, and is a viable or acceptable deposit, must also be submitted to the USPTO.

In order to meet and satisfy requirements for international patenting, all countries signing the Budapest Treaty must recognize the deposit of biological material with any International Depository Authority (IDA).

**II. Method of Collection**

By mail, facsimile, or hand delivery to the USPTO when the applicant or agent

files a patent application with the USPTO or submits subsequent papers during the prosecution of the application to the USPTO.

**III. Data**

*OMB Number:* 0651-0022.

*Form Number(s):* None.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households; business or other for-profit; not-for-profit institutions; and the Federal Government.

*Estimated Number of Respondents:* 3,500 responses per year for deposited materials and 0.25 per year for depository approval.

*Estimated Time Per Response:* The USPTO estimates that it will take approximately 1 hour per application for deposited materials and 5 hours per application for depository approval.

*Estimated Total Annual Respondent Burden Hours:* 3,501 hours per year.

*Estimated Total Annual Respondent Cost Burden:* \$105,315 per year to submit the information to the USPTO. Using the professional hourly rate of \$30 for a senior administrative assistant, the USPTO estimates \$105,000 per year for salary costs associated with collecting and submitting the necessary deposit information. Using the professional hourly rate of \$252 for associate attorneys in private firms, the USPTO estimates \$315 per year for salary costs associated with the average depository seeking approval to store biological material.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Deposited Materials .....	1 hour .....	3,500	3,500
Depository Approval .....	5 hours .....	0.25	1.25
Total .....	.....	3,500	3,501

*Estimated Total Annual Non-hour Respondent Cost Burden:* \$979,010. There are no maintenance costs or filing fees associated with this information collection. There are, however, capital start-up and postage costs.

Depositories charge fees to depositors; all depositories charge about the same rates for their services. For example, the American Type Culture Collection (ATCC), one of the world's leading biological supply houses and recognized patent depositories, charges a one-time fee of \$1,150 per deposit for basic storage and informing, and a minimum of \$160 per deposit for viability testing,

depending upon the type of deposit being tested. Most deposits received from outside the United States require an import permit from the U.S. Department of Agriculture (USDA). Also required is a public Health Service (PHS) permit, available from the Centers for Disease Control and Prevention (CDC), for importation of agents infectious to humans. This permit application processing fee is \$150. The USPTO estimates that the total non-hour respondent cost burden in the form of capital start-up costs amounts to \$1,460.

In addition, this collection does have postage costs. Biological deposits are

generally shipped to the depository Domestic Overnight by Federal Express (FedEx) and, since depositors are urged to supply frozen or freeze dried material, it must be packed in dry ice, according to a representative from the Patent Department at ATCC. Dry ice itself is considered dangerous goods and requires special packaging. Additional FedEx special handling charges of \$60 per shipment apply for temperature-sensitive biological material and also for the dry ice. An average cost for shipping by FedEx Domestic Overnight is estimated to be \$75. If the shipment requires pick-up by FedEx, there is an

additional charge of \$2.50. Special packaging is also required for these shipments. According to DG Supplies Inc., a supplier of infectious and diagnostic goods packaging, frozen infectious shippers are estimated to cost \$141.80 per package for specimen

shipments requiring refrigeration or dry ice. Therefore, postage costs average \$279.30 per shipment, for a total cost to all the respondents of \$977,550. The postage cost for a depository seeking recognition is estimated to be \$3.85, sent to the USPTO by priority mail

through the United States Postal Service. Therefore, the USPTO estimates that the total non-hour respondent cost burden in the form of postage costs amounts to \$977,551.

Item	Responses (a)	Postage costs (\$) (b)	Total non-hour cost burden (a) × (b)
Deposited Materials .....	3,500	\$279.30	\$977,550.00
Depository Approval .....	0.25	3.85	1.00
Total .....	3,501	.....	977,551.00

The USPTO estimates that the total non-hour respondent cost burden for this collection in the form of capital start-up costs (\$1,460) and postage costs (\$977,551) amounts to \$979,011.

**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 or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: August 29, 2003.

**Susan K. Brown,**

*Records Officer, USPTO, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division.*

[FR Doc. 03-22612 Filed 9-4-03; 8:45 am]

**BILLING CODE 3510-16-P**

**COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS**

**Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Malaysia**

August 29, 2003.

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

**ACTION:** Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

**EFFECTIVE DATE:** September 5, 2003.

**FOR FURTHER INFORMATION CONTACT:** Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the Bureau of Customs and Border Protection website at <http://www.customs.gov>. For information on embargoes and quota reopenings, refer to the Office of Textiles and Apparel website at <http://otexa.ita.doc.gov>.

**SUPPLEMENTARY INFORMATION:**

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

The current limits for certain categories are being adjusted, variously, for swing, special shift and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION:** Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 68 FR 1599, published on January 13, 2003). Also

see 67 FR 63896, published on October 16 2002.

**James C. Leonard III,**

*Chairman, Committee for the Implementation of Textile Agreements.*

Committee for the Implementation of Textile Agreements

August 29, 2003.

Commissioner,  
*Bureau of Customs and Border Protection, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 9, 2002, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 2003 and extends through December 31, 2003.

Effective on September 5, 2003, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit <sup>1</sup>
Other specific limits	
333/334/335 .....	506,699 dozen of which not more than 263,719 dozen shall be in Category 333.
342/642 .....	762,634 dozen.
345 .....	296,802 dozen.
634/635 .....	1,451,092 dozen.
645/646 .....	513,885 dozen.
647/648 .....	3,039,496 dozen of which not more than 2,212,459 dozen shall be in Category 647-K <sup>2</sup> and not more than 2,212,459 dozen shall be in Category 648-K <sup>3</sup>

<sup>1</sup> The limits have not been adjusted to account for any imports exported after December 31, 2002.

<sup>2</sup>Category 647-K: only HTS numbers 6103.23.0040, 6103.23.0045, 6103.29.1020, 6103.29.1030, 6103.43.1520, 6103.43.1540, 6103.43.1550, 6103.43.1570, 6103.49.1020, 6103.49.1060, 6103.49.8014, 6112.12.0050, 6112.19.1050, 6112.20.1060 and 6113.00.9044.

<sup>3</sup>Category 648-K: only HTS numbers 6104.23.0032, 6104.23.0034, 6104.29.1030, 6104.29.1040, 6104.29.2038, 6104.63.2006, 6104.63.2011, 6104.63.2026, 6104.63.2028, 6104.63.2030, 6104.63.2060, 6104.69.2030, 6104.69.2060, 6104.69.8026, 6112.12.0060, 6112.19.1060, 6112.20.1070, 6113.00.9052 and 6117.90.9070.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,  
James C. Leonard III,  
*Chairman, Committee for the Implementation of Textile Agreements.*  
[FR Doc. 03-22603 Filed 9-4-03; 8:45 am]  
BILLING CODE 3510-DR-S

**COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS**

**Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Pakistan**

August 29, 2003.

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

**ACTION:** Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

**EFFECTIVE DATE:** September 5, 2003.

**FOR FURTHER INFORMATION CONTACT:** Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the Bureau of Customs and Border Protection website at <http://www.customs.gov>. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at <http://otexa.ita.doc.gov>.

**SUPPLEMENTARY INFORMATION:**

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

The current limits for certain categories are being adjusted for special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the

CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 68 FR 1599, published on January 13, 2003). Also see 67 FR 68572, published on November 12, 2002.

**James C. Leonard III,**  
*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

August 29, 2003.

Commissioner,  
*Bureau of Customs and Border Protection, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 1, 2002, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 2003 and extends through December 31, 2003.

Effective on September 5, 2003, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Twelve-month restraint limit <sup>1</sup>
338 .....	9,407,951 dozen.
347/348 .....	1,831,737 dozen.
360 .....	10,090,318 numbers.
361 .....	10,800,787 numbers.

<sup>1</sup>The limits have not been adjusted to account for any imports exported after December 31, 2002.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,  
James C. Leonard III,  
*Chairman, Committee for the Implementation of Textile Agreements.*  
[FR Doc. 03-22604 Filed 9-4-03 8:45 am]

BILLING CODE 3510-DR-S

**COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS**

**Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Romania**

August 29, 2003.

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

**ACTION:** Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

**EFFECTIVE DATE:** September 5, 2003.

**FOR FURTHER INFORMATION CONTACT:** Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the Bureau of Customs and Border Protection website at <http://www.customs.gov>. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at <http://otexa.ita.doc.gov>.

**SUPPLEMENTARY INFORMATION:**

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

The current limits for certain categories are being adjusted for swing and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 68 FR 1599, published on January 13, 2003). Also see 67 FR 57409, published on September 10, 2002.

**James C. Leonard III,**  
*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

August 29, 2003.

Commissioner,  
*Bureau of Customs and Border Protection, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on September 3, 2002, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products in the following categories, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 2003 and extends through December 31, 2003.

Effective on September 5, 2003, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit <sup>1</sup>
315 .....	4,834,776 square meters.

Category	Adjusted twelve-month limit <sup>1</sup>
604 .....	2,113,956 kilograms.

<sup>1</sup> The limits have not been adjusted to account for any imports exported after December 31, 2002.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,  
James C. Leonard III,  
*Chairman, Committee for the  
Implementation of Textile Agreements.*  
[FR Doc. 03-22605 Filed 9-4-03; 8:45 am]

BILLING CODE 3510-DR-S

## CONSUMER PRODUCT SAFETY COMMISSION

### Petition Requesting Performance Standards for a System To Reduce or Prevent Injuries From Contact With the Blade of a Table Saw (Petition No. CP 03-2); Extension of Comment Period

**AGENCY:** Consumer Product Safety  
Commission.

**ACTION:** Notice of extension of comment  
period.

**SUMMARY:** By notice in the **Federal Register** of July 9, 2003, 68 FR 40912, the Consumer Product Safety Commission (CPSC or Commission) invited comment on Petition No. CP 03-2, Petition Requesting Performance Standards for a System to Reduce or Prevent Injuries from Contact with the Blade of a Table Saw. In response to a request by the Power Tool Institute, Inc. to extend the comment period on the petition by 60 days, the Commission is extending it through Friday, November 7, 2003.

**DATES:** The Office of the Secretary must receive any comments on the petition not later than November 7, 2003.

**ADDRESSES:** Comments should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207-0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814; telephone (301) 504-0800. Comments also may be filed by facsimile to (301) 504-0127 or by e-mail to [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov). Comments should be captioned "Petition CP 03-2, Petition for Performance Standards for Table Saws."

**FOR FURTHER INFORMATION CONTACT:** Rockelle Hammond, Office of the Secretary, Consumer Product Safety

Commission, Washington, DC 20207; telephone (301) 504-6833, e-mail [rhammond@cpsc.gov](mailto:rhammond@cpsc.gov).

**SUPPLEMENTARY INFORMATION:** Copies of the petition may be obtained from the Office of the Secretary. A copy of the petition is available for inspection at the Commission's Public Reading Room, Room 419, 4330 East-West Highway, Bethesda, Maryland. The petition is also available on the CPSC World Wide Web site at: <http://www.cpsc.gov/library/foia/foia03/petition/peti.html>.

Comments on the petition must be received by the Office of the Secretary not later than Friday, November 7, 2003.

Dated: August 28, 2003.

**Todd A. Stevenson,**

*Secretary, Consumer Product Safety  
Commission.*

[FR Doc. 03-22586 Filed 9-4-03; 8:45 am]

BILLING CODE 6355-01-P

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Announcement of Anticipated Availability of Funds for Grants to Support the Martin Luther King, Jr. Service Day Initiative

**AGENCY:** Corporation for National and  
Community Service.

**ACTION:** Notice of funding opportunity.

**SUMMARY:** The Corporation for National and Community Service (hereinafter the "Corporation") announces the anticipated availability of funds for Fiscal Year (FY) 2004 to award up to \$500,000 in grant funds to pay for the Federal share of the cost of planning and carrying out service opportunities in conjunction with the federal legal holiday honoring the birthday of Martin Luther King, Jr. on January 19, 2004. The Corporation invites applications for these grants. By law, any entity otherwise eligible for assistance under the national service laws is eligible to receive a grant under this announcement. The applicable laws include the National and Community Service Act of 1990, as amended, and the Domestic Volunteer Service Act of 1973, as amended. The federal grants we provide for this project, together with all other federal funds you use to plan or carry out the service opportunity, may not exceed 30 percent of the total cost.

The purpose of the grants is to mobilize more Americans to observe the Martin Luther King, Jr. federal holiday as a day of service in communities and to bring people together around the common focus of service to others. To achieve this, depending upon

appropriations provided by the Congress for the Corporation, and based upon previous allocations of funding for this activity, we intend to disburse up to \$500,000 in grant funds to support approved service opportunities. Eligible organizations may apply for a grant to support national service and community volunteering projects. Grant awards may range from \$2,500 to \$7,500. We seek proposals that are cost effective, based on the number of people serving and being served, and the service performed.

This program announcement is subject to the appropriation of funds and is a contingency action taken to ensure that, should funds become available for this purpose, applications can be processed in an orderly manner, and funds can be awarded in a timely fashion.

**Note:** This notice is not a complete description of the activities to be funded or of the application requirements. For supplementary information and application guidelines, including the Corporation state office contact information, go to the Corporation's Web site at <http://www.cns.gov/whatshot/notices.html>.

**DATES:** The Corporation generally requires applicants to apply through eGrants, our on-line grants management system. The deadline for eGrants applications is 5 p.m. Eastern Time on October 2, 2003. If for some legitimate reason it is necessary for you to submit a paper application, please notify ahead of time the appropriate Corporation for National and Community Service office that serves your state (*see*

**SUPPLEMENTARY INFORMATION**). All the applications must be received by 5 p.m. Eastern Time on October 2, 2003, at the Corporation for National and Community Service in Washington, DC. We anticipate announcing selections under this Notice no later than November 14, 2003.

**ADDRESSES:** You may access eGrants through our Web site at <http://www.nationalservice.org/egrants/>. Please allow adequate time to access and submit an application through eGrants. Technical assistance is available Monday through Friday from 8 a.m.-6 p.m. Eastern Time. If you cannot submit an application electronically, please notify ahead of time the appropriate Corporation office that is in your state or that provides service to your state. Submit paper application to the following address: Martin Luther King, Jr. Day of Service, Corporation for National and Community Service, 1201 New York Avenue NW., Room 8416-D, Washington DC 20525.

Due to delays in delivery of regular mail to government offices, there is no

guarantee that a paper application sent by regular mail will arrive in time to be considered. We therefore suggest that, if submitting a paper application, you use U.S.P.S. priority mail or a commercial overnight delivery service to make sure that you meet the deadline. We will not accept an application that is submitted via facsimile or email.

**FOR FURTHER INFORMATION CONTACT:** For further information, contact the person listed for the Corporation office in your state (see Note above). You may request this notice in an alternative format for the visually impaired by calling (202) 606-5000, ext. 278. The Corporation's T.D.D. number is (202) 565-2799 and is operational between the hours of 9 a.m. and 5 p.m. Eastern Time.

**Program Authority:** 42 U.S.C. 12653(s).

Dated: September 2, 2003.

**James F. Manning,**

*Acting Chief Executive Officer.*

[FR Doc. 03-22660 Filed 9-4-03; 8:45 am]

**BILLING CODE 6050--\$S-P**

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0007]

#### Federal Acquisition Regulation; Submission for OMB Review; Summary Subcontract Report

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding an extension of an existing OMB clearance (9000-0007).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning summary subcontract report. A request for public comments was published in the **Federal Register** at 68 FR 37468 on June 24, 2003. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the

public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Comments may be submitted on or before October 6, 2003.

**ADDRESSES:** Submit comments including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVA), Room 4035 1800 F Street, NW., Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Rhonda Cundiff, Acquisition Policy Division, GSA (202) 501-0044.

#### SUPPLEMENTARY INFORMATION:

##### A. Purpose

In accordance with the Small Business Act (15 U.S.C. 631, *et seq.*), contractors receiving a contract for more than \$10,000 agree to have small and small disadvantaged business concerns participate in the performance of the contract as far as practicable. Contractors receiving a contract or a modification to a contract expected to exceed \$500,000 (\$1 million for construction) must submit a subcontracting plan that provides maximum practicable opportunities for small and small disadvantaged business concerns. Specific elements required to be included in the plan are specified in section 8(d) of the Small Business Act and are implemented in FAR 19.7.

##### B. Annual Reporting Burden

*Number of Respondents:* 4,253.  
*Responses Per Respondent:* 1.66.  
*Total Responses:* 7,098.  
*Average Burden Hours Per Response:* 15.9.

*Total Burden Hours:* 112,864.  
*Obtaining Copies of Justifications:* Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVA), Room 4035, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0007, Summary Subcontract Report, in all correspondence.

Dated: August 21, 2003.

**Laura G. Auletta,**

*Director, Acquisition Policy Division.*

[FR Doc. 03-22591 Filed 9-4-03; 8:45 am]

**BILLING CODE 6820-EP-P**

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0133]

#### Federal Acquisition Regulations; Information Collection; Defense Production Act Amendments

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding an extension to an existing OMB clearance (9000-0133).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning defense production act amendments. This OMB clearance expires on November 30, 2003.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Submit comments on or before November 4, 2003.

**ADDRESSES:** Submit comments, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Gerald Zaffos, Acquisition Policy Division, GSA (202) 208-6091.

#### SUPPLEMENTARY INFORMATION:

##### A. Purpose

Title III of the Defense Production Act (DPA) of 1950 authorizes various forms of Government assistance to encourage expansion of production capacity and

supply of industrial resources essential to national defense. The DPA Amendments of 1992 provide for the testing, qualification, and use of industrial resources manufactured or developed with assistance provided under Title III of the DPA.

FAR 34.1 and 52.234-1 require contractors, upon the direction of the contracting officer, to test Title III industrial resources for qualification, and provide the test results to the Defense Production Act Office. The FAR coverage also expresses Government policy to pay for such testing and provides definitions, procedures, and a contract clause to implement the policy. This information is used by the Defense Production Act Office, Title III Program, to determine whether the Title III industrial resource has been provided an impartial opportunity to qualify.

#### B. Annual Reporting Burden

*Respondents:* 6.

*Responses Per Respondent:* 3.

*Total Annual Responses:* 18.

*Hours Per Response:* 100.

*Total Burden Hours:* 1,800.

*Obtaining Copies of Proposals:*

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVA), Room 4035, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0133, Defense Production Act Amendments in all correspondence.

Dated: August 26, 2003.

**Laura G. Auletta,**

*Director, Acquisition Policy Division.*

[FR Doc. 03-22592 Filed 9-4-03; 8:45 am]

BILLING CODE 6820-EP-P

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0075]

#### Federal Acquisition Regulation; Submission for OMB Review; Government Property

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding an extension to an existing OMB clearance (9000-0075).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44

U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Government Property. A request for public comments was published in the **Federal Register** at 68 FR 37467 on June 24, 2003. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Submit comments on or before October 6, 2003.

**ADDRESSES:** Submit comments, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Jeritta Parnell, Acquisition Policy Division, GSA (202) 501-4082.

#### SUPPLEMENTARY INFORMATION:

##### A. Purpose

“Property,” as used in Part 45, means all property, both real and personal. It includes facilities, material, special tooling, special test equipment, and agency-peculiar property. Government property includes both Government-furnished property and contractor-acquired property.

Contractors are required to establish and maintain a property system that will control, protect, preserve, and maintain all Government property because the contractor is responsible and accountable for all Government property under the provisions of the contract including property located with subcontractors.

The contractor’s property control records shall constitute the Government’s official property records and shall be used to—

(a) Provide financial accounts for Government-owned property in the contractor’s possession or control;

(b) Identify all Government property (to include a complete, current, auditable record of all transactions);

(c) Locate any item of Government property within a reasonable period of time.

This clearance covers the following requirements:

(a) FAR 45.307-2(b) requires a contractor to notify the contracting officer if it intends to acquire or fabricate special test equipment.

(b) FAR 45.502-1 requires a contractor to furnish written receipts for Government property.

(c) FAR 45.502-2 requires a contractor to submit a discrepancy report upon receipt of Government property when overages, shortages, or damages are discovered.

(d) FAR 45.504 requires a contractor to investigate and report all instances of loss, damage, or destruction of Government property.

(e) FAR 45.505-1 requires that basic information be placed on the contractor’s property control records.

(f) FAR 45.505-3 requires a contractor to maintain records for Government material.

(g) FAR 45.505-4 requires a contractor to maintain records of special tooling and special test equipment.

(h) FAR 45.505-5 requires a contractor to maintain records of plant equipment.

(i) FAR 45.505-7 requires a contractor to maintain records of real property.

(j) FAR 45.505-8 requires a contractor to maintain scrap and salvage records.

(k) FAR 45.505-9 requires a contractor to maintain records of related data and information.

(l) FAR 45.505-10 requires a contractor to maintain records for completed products.

(m) FAR 45.505-11 requires a contractor to maintain records of transportation and installation costs of plant equipment.

(n) FAR 45.505-12 requires a contractor to maintain records of misdirected shipments.

(o) FAR 45.505-13 requires a contractor to maintain records of property returned for rework.

(p) FAR 45.505-14 requires a contractor to submit an annual report of Government property accountable to each agency contract.

(q) FAR 45.508-2 requires a contractor to report the results of physical inventories.

(r) FAR 45.509-1(a)(3) requires a contractor to record work accomplished in maintaining Government property.

(s) FAR 45.509-1(c) requires a contractor to report the need for major repair, replacement and other rehabilitation work.

(t) FAR 45.509-2(b)(2) requires a contractor to maintain utilization records.

(u) FAR 45.606-1 requires a contractor to submit inventory schedules.

(v) FAR 45.606-3(a) requires a contractor to correct and resubmit inventory schedules as necessary.

(w) FAR 52.245-2(a)(3) requires a contractor to notify the contracting officer when Government-furnished property is received and is not suitable for use.

(x) FAR 52.245-2(a)(4) requires a contractor to notify the contracting officer when government-furnished property is not timely delivered and the contracting officer will make a determination of the delay, if any, caused the contractor.

(y) FAR 52.245-2(b) requires a contractor to submit a written request for an equitable adjustment if Government-furnished property is decreased, substituted, or withdrawn by the Government.

(z) FAR 52.245-4 requires a contractor to submit a timely written request for an equitable adjustment when Government-furnished property is not furnished in a timely manner.

(aa) FAR 52.245-5(a)(4) requires a contractor to notify the contracting officer when Government-furnished property is received that is not suitable for use.

(bb) FAR 52.245-5(a)(5) requires a contractor to notify the contracting officer when Government-furnished property is not received in a timely manner.

(cc) FAR 52.245-5(b)(2) requests a contractor to submit a written request for an equitable adjustment if Government-furnished property is decreased, substituted, or withdrawn by the Government.

(dd) FAR 52.245-7(f) requires a contractor to notify the contracting officer when use of all facilities falls below 75% of total use.

(ee) FAR 52.245-7(l)(2) requires a contractor to alert the contracting officer within 30 days of receiving facilities that are not suitable for use.

(ff) FAR 52.245-9(f) requires a contractor to submit a facilities use statement to the contracting officer within 90 days after the close of each rental period.

(gg) FAR 52.245-10(h)(2) requires a contractor to notify the contracting officer if facilities are received that are not suitable for the intended use.

(hh) FAR 52.245-11(e) requires a contractor to notify the contracting officer when use of all facilities falls below 75% of total use.

(ii) FAR 52.245-11(j)(2) requires a contractor to notify the contracting officer within 30 days of receiving facilities not suitable for intended use.

(jj) FAR 52.245-17 requires a contractor to maintain special tooling records.

(kk) FAR 52.245-18(b) requires a contractor to notify the contracting officer 30 days in advance of the contractor's intention to acquire or fabricate special test equipment (STE).

(ll) FAR 52.245-18(d) & (e) requires a contractor to furnish the names of subcontractors who acquire or fabricate special test equipment (STE) or components and comply with paragraph (d) of this clause, and contractors must comply with the (b) paragraph of this clause if an engineering change requires acquisition or modification of STE. In so complying, the contractor shall identify the change order which requires the proposed acquisition, fabrication, or modification.

(mm) FAR 52.245-19 requires a contractor to notify the contracting officer if there is any change in the condition of property furnished "as is" from the time of inspection until time of receipt.

(nn) FAR 49.602-2(a) through (e) refers to the inventory schedule forms, SF's 1426 through 1434.

This information is used to facilitate the management of Government property in the possession of the contractor.

#### **B. Annual Reporting Burden**

*Number of Respondents:* 27,884.

*Responses per Respondent:* 488.6.

*Total Responses:* 13,624,122.

*Average Burden Hours Per Response:* 4826.

*Total Burden Hours:* 6,575,805.

The total burden hours have changed under this OMB clearance 9000-0075 to reflect the incorporation of hours currently associated with OMB clearance 9000-0151 (FAR Case 1995-013) which expired as of June 2000 and was not renewed. The OMB collection burden associated with Government property nonetheless remains unchanged.

#### *Obtaining Copies of Proposals:*

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVA), Room 4035, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0075,

Government Property, in all correspondence.

Dated: August 20, 2003.

**Laura G. Auletta,**

*Director, Acquisition Policy Division.*

[FR Doc. 03-22593 Filed 9-4-03; 8:45 am]

**BILLING CODE 6820-EP-P**

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## **DEPARTMENT OF DEFENSE**

### **Department of the Army**

#### **Board of Visitors, United States Military Academy**

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice of open meeting.

**SUMMARY:** In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

*Name of Committee:* Board of Visitors, United States Military Academy (USMA).

*Date:* Friday, September 26, 2003.

*Place of Meeting:* Taylor Hall, Building 600, Superintendent's Conference Room, West Point, NY 10996.

*Start Time of Meeting:* Approximately 3 p.m.

*Proposed Agenda:* Annual Visit and Fall Meeting of the Board of Visitors. Review of the Academic, Military and Physical Programs at the USMA.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Colonel Edward C. Clarke, United States Military Academy, West Point, NY 10996-5000, (845) 938-4200.

**SUPPLEMENTARY INFORMATION:** All proceedings are open.

**Luz D. Ortiz,**

*Army Federal Register Liaison Officer.*

[FR Doc. 03-22631 Filed 9-4-03; 8:45 am]

**BILLING CODE 3710-08-M**

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## **DEPARTMENT OF DEFENSE**

### **Department of the Army**

#### **Defense Transportation Regulation, Part IV, Personal Property; Change 1**

**AGENCY:** Department of the Army, DOD.

**ACTION:** Notice; final policy.

**SUMMARY:** Change 1 of DOD 4500.9-R, the Defense Transportation Regulation, Part IV, Personal Property has been published and released as of August 2003. The revised DOD Regulation 4500.9-R, Part IV, supercedes DOD Regulation 4500.9-R, Part IV, dated August 1999 and replaces DOD Regulation 4500.34R. *Personal Property*

*Traffic Management Regulation (PPTMR)*. A notice regarding the change to this part of the Defense Transportation Regulation was published in the **Federal Register**, April 11, 2002 (67 FR 17679). The carrier associations and individual carriers and agents responded to the **Federal Register** notice with approximately 200 individual comments. Those comments were carefully reviewed and considered prior to finalizing the publication. The disposition of those comments has been coordinated through the Military Traffic Management Command (MTMC), the military Services, and the United States Transportation Command. A document explaining the disposition of those comments will be available for review via the Internet on the MTMC's Home page at <http://www.mtmc.army.mil>.

**EFFECTIVE DATE:** August 6, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Debra Barnard, U.S. Transportation Command, TCJ5-PT, 508 Scott Drive, Scott AFB, IL, 62225, (618) 229-1985. HQ MTMC CONTACT: Robert Dawson or Alex Moreno, HQ Military Traffic Management Command MTPP-PP, 200 Stovall Street, Hoffman II, Room 10N67-72, Alexandria, VA, 22332-5000, (703) 428-3495.

**SUPPLEMENTARY INFORMATION:** This publication applies to the Office of the Secretary of Defense, Military Departments, Chairman and Joint Chiefs of Staff, Unified Commands, and the Defense Agencies. The public may obtain copies of the new DTR Part IV for a fee from the U.S. Department of Commerce, National Technical Information Services, 5285 Port Royal, Springfield, VA 22161.

*Regulatory Flexibility Act:* This action is not considered rule-making within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612.

*Paperwork Reduction Act:* The Paperwork Reduction Act, 44 U.S.C. 3051 *et seq.*, does not apply because no information collection or record-keeping requirements are imposed on contractors, offerors, or members of the public.

**Luz D. Ortiz,**

*Army Federal Register Liaison Officer.*

[FR Doc. 03-22630 Filed 9-4-03; 8:45 am]

**BILLING CODE 3710-08-M**

## DEPARTMENT OF DEFENSE

### Department of the Army; Corps of Engineers

#### Intent to Prepare an Environmental Impact Statement for the Pike County, KY (Levisa Fork Basin), Section 202 Project

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

**ACTION:** Notice of intent.

**SUMMARY:** Pursuant to the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers, DOD, Huntington District will prepare an Environmental Impact Statement (EIS). The EIS will evaluate potential impacts to the natural, physical, and human environment as a result of the proposed flood damage reduction measure for the Levisa Fork and Russell Fork basins in Pike County, Kentucky.

The Corps of Engineers will conduct a public scoping meeting to gain input from interested agencies, organizations, and the general public concerning the content of the EIS, issues and impacts to be addressed in the EIS, and alternatives that should be analyzed. The meeting is scheduled for:

*Date:* Sept. 25, 2003.

*Time:* 7:00-10:00 PM.

*Place:* Pikeville High School, 120 Championship Drive, Pikeville, KY 41501.

**ADDRESSES:** Send written comments and suggestions concerning this proposed project to S. Michael Worley PM-PD, U.S. Army Corps of Engineers, Huntington District, 502 Eighth Street, Huntington, WV 25701-2070. Telephone: (304) 529-5712. Electronic mail: [Stephen.M.Worley@Lrh01.usace.army.mil](mailto:Stephen.M.Worley@Lrh01.usace.army.mil). requests to be placed on the mailing list should also be sent to this address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark D. Kessinger PM-P, U.S. Army Corps of Engineers, Huntington District, 502 Eighth Street, Huntington, WV, 25701-2070. Telephone: (304) 529-5083. Electronic mail: [Mark.d.kessinger@usace.army.mil](mailto:Mark.d.kessinger@usace.army.mil).

**SUPPLEMENTARY INFORMATION:** 1.

*Authority:* The proposed project is authorized under section 202 of the Water Resources Development Act (WRDA) of 1996, which provides the Corps authority to “\* \* \* design and construct flood control measures relating to the Levisa and Tug Fork of the Big Sandy River and Cumberland River, West Virginia, Kentucky and Virginia.”

2. *Background:* Since the earliest Levisa Fork Basin settlements, the residents faced the problem of frequent and severe flooding. Many Pike County communities within the floodplain of the Levisa and Russell Fork and tributaries were devastated by the April 1977 flood, which was the flood of record for much of the region. A significant flood again inundated the Levisa Fork communities in May of 1984. Congressional reaction to these flood events resulted in the inclusion of funds and language in various legislative directives that mandated expeditious implementation of flood damage reduction measures within the study area covered by the Huntington District's section 202 General Plan.

The study area, primarily residential in nature, includes the incorporated areas of Pikeville, Coal Run, Elkhorn City, and unincorporated areas in the county subject to flood damage from the potential of a reoccurrence of the April 1977 flood. The project requires providing flood protection measures to approximately 2,000 structures, 75 percent of which are residential.

Alternatives being initially considered include floodwall/levee systems protecting Pikeville and Coal Run, non-structural flood-proofing and several ring walls protecting individual structures. Alternatives to be evaluated in detail in the Draft EIS will be selected from those described above.

3. *Public Participation:* The Corps invites full public participation to promote open communication and better decision-making. All persons and organizations that have an interest in the Levisa Fork Basin flooding problems as they affect Pike County and the environment are urged to participate in this NEPA environmental analysis process. Assistance will be provided upon request to anyone having difficulty with learning how to participate.

Public comments are welcomed anytime throughout the NEPA process. Formal opportunities for public participation include: (1) A public meeting will be held in the community of Pikeville, KY; (2) anytime during the NEPA process via mail, telephone or e-mail; (3) during Review and Comment on the Draft EIS—approximately January of 2004; and, (4) review of the Final EIS—Spring 2004. Schedules and locations will be announced in local news media. Interested parties should submit contact information to be included on the mailing list of public

distribution of meeting announcements and documents (See **ADDRESSES**).

**Luz D. Ortiz,**

*Army Federal Register Liaison Officer.*

[FR Doc. 03-22633 Filed 9-4-03; 8:45 am]

**BILLING CODE 3710-GM-M**

## DEPARTMENT OF DEFENSE

### Department of the Army; Corps of Engineers

#### Estuary Habitat Restoration Council; Open Meeting

**AGENCY:** Department of the Army, Army Corps of Engineers, DoD.

**ACTION:** Notice of open meeting.

**SUMMARY:** In accordance with section 105(h) of the Estuary Restoration Act of 2000, (Title I, Pub. L. 106-457), announcement is made of the forthcoming meeting of the Estuary Habitat Restoration Council. The meeting is open to the public.

**DATES:** The meeting will be held from 10 a.m. to 12 p.m. on Thursday, September 25, 2003.

**ADDRESSES:** The meeting will be in room 3M60/70, 441 G Street, NW., Washington, DC.

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

**SUPPLEMENTARY INFORMATION:** The Estuary Habitat Restoration Council consists of representatives of five agencies. These are the National Oceanic and Atmospheric Administration, Environmental Protection Agency, U.S. fish and Wildlife Service, Department of Agriculture, and Army. Among the duties of the Council is development of a national estuary restoration strategy designed in part to meet the goal of restoring one million acres by 2010.

The primary agenda topic will be the Council's approval of a list of projects, in priority order, to be submitted to the Secretary of the Army for consideration for implementation funding.

Current security measures require that persons interested in attending the meeting must pre-register with us before 2 p.m., September 23, 2003. Please contact Ellen Cummings at (202) 761-4558 to pre-register. When leaving a voice mail message please provide the name of the individual attending, the company or agency represented, and a

telephone number, in case there are any questions. The public should enter on the "G" Street side of the GAO building. All attendees are required to show photo identification and must be escorted to the meeting room by Corps personnel. Attendee's bags and other possessions are subject to being searched. All attendees arriving between one-half hour before and one-half hour after 10 a.m. will be escorted to the hearing. Those who are not pre-registered and/or arriving later than the allotted time will be unable to attend the public meeting.

**Luz D. Ortiz,**

*Army Federal Register Liaison Officer.*

[FR Doc. 03-22629 Filed 9-4-03; 8:45 am]

**BILLING CODE 3710-92-M**

## DEPARTMENT OF DEFENSE

### Department of the Army; Corps of Engineers

#### Inland Waterways Users Board

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

**ACTION:** Notice of open meeting.

**SUMMARY:** In Accordance with 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the forthcoming meeting.

*Name of Committee:* Inland Waterways Users Board (Board).

*Date:* September 24, 2003.

*Location:* Doubletree Hotel Houston-Post Oak, 2001 Post Oak Boulevard, Houston, TX 77056 (1-713-961-9300).

*Time:* Registration will begin at 8:30 a.m. and the meeting is scheduled to adjourn at 12 p.m.

*Agenda:* The Board will hear briefings on the status of both the funding for inland navigation projects and studies, and the Inland Waterways Trust Fund. The Board will also receive the status of various inland waterway activities.

**FOR FURTHER INFORMATION CONTACT:** Mr. Norman T. Edwards, Headquarters, U.S. Army Corps of Engineers, CECW-PD, 441 G Street, NW., Washington, DC 20314-1000; Ph: 202-761-4559.

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

**Luz D. Ortiz,**

*Army Federal Register Liaison Officer.*

[FR Doc. 03-22632 Filed 9-4-03; 8:45 am]

**BILLING CODE 3710-92-M**

## DEPARTMENT OF DEFENSE

### Department of the Navy

#### Notice of Availability of Government-Owned Inventions; Available for Licensing

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy.

U.S. Patent No. 6,105,382 entitled "Chest Mounted Armored Microclimate Conditioned Air Device", Navy Case No. 79727, Inventor Reason, Issue Date 22 August, 2000.//U.S. Patent No. 6,240,742 entitled "Modular Portable Air-Conditioning System", Navy Case No. 79780, Inventors Kaufman *et al.*, Issue Date 5 June, 2001.//U.S. Patent No. 6,249,241 entitled "Marine Vessel Traffic System", Navy Case No. 76518, Inventors Jordan *et al.*, Issue Date 19 June, 2001.//U.S. Patent No. 5,982,420 entitled "Autotracking Device Designating a Target", Navy Case No. 77657, Inventor Ratz, Issue Date 9 November, 1999.//U.S. Patent No. 6,005,399 entitled "Solder Paste and Residue Measurement System", Navy Case No. 78137, Inventors Frederickson *et al.*, Issue Date 21 December, 1999.

**ADDRESSES:** Request for data and inventor interviews should be directed to Mr. Paul Fritz, Naval Air Warfare Center Aircraft Division, Business Development Office, Office of Research and Technology Applications, Bldg 304, Rm 107, 22541 Millstone Rd, Patuxent River, MD 20670, (301) 342-5586 or E-Mail: [Fritzpm@navair.navy.mil](mailto:Fritzpm@navair.navy.mil).

**FOR FURTHER INFORMATION CONTACT:** Mr. Paul Fritz, Naval Air Warfare Center Aircraft Division, Business Development Office, Office of Research and Technology Applications, Bldg 304, Rm 107, 22541 Millstone Rd, Patuxent River, MD 20670, (301) 342-5586 or E-Mail: [Fritzpm@navair.navy.mil](mailto:Fritzpm@navair.navy.mil).

**SUPPLEMENTARY INFORMATION:** The U.S. Navy intends to move expeditiously to license these patents. All licensing application packages and commercialization plans must be returned to Naval Air Warfare Center Aircraft Division, Business Development Office, Office of Research and Technology Applications, Bldg 304, Rm 107, 22541 Millstone Rd, Patuxent River, MD 20670.

The Navy, in its decision concerning the granting of licenses, will give special consideration to small business firms,

and consortia involving small business firms.

The Navy intends to insure that its licensed inventions are broadly commercialized throughout the United States.

Any license of Navy technology will require that materials which embody the inventions licensed that are to be sold in the United States of America, will be manufactured substantially in the United States.

(Authority: 35 U.S.C. 207, 37 CFR part 404).

Dated: August 26, 2003.

**S.K. Melancon,**

*Paralegal Specialist, Office of the Judge Advocate General, Alternate Federal Register Liaison Officer.*

[FR Doc. 03-22596 Filed 9-4-03; 8:45 am]

**BILLING CODE 3810-FF-P**

## DEPARTMENT OF DEFENSE

### Department of the Navy

#### Meeting of the Secretary of the Navy's Advisory Subcommittee on Naval History

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Secretary of the Navy's Advisory Subcommittee on Naval History, a subcommittee of the Department of Defense Historical Advisory Committee will meet to review naval historical activities since the last meeting of the Advisory Subcommittee on Naval History, which was conducted on September 19, and September 20, 2002, and to make comments and recommendations on these activities to the Secretary of the Navy. The meetings will be open to the public.

**DATES:** The meetings will be held on Thursday, September 18, 2003, from 8 a.m. to 4 p.m. and Friday, September 19, 2003, from 8 a.m. to 4 p.m.

**ADDRESSES:** The meetings will be held at the Navy Museum of The Naval Historical Center, 805 Kidder Breese Street, SE., Building 76, Washington Navy Yard, DC 20374-5060.

**FOR FURTHER INFORMATION CONTACT:** Dr. William S. Dudley, Director of Naval History, 805 Kidder Breese Street, SE., Bldg. 57, Washington Navy Yard, DC 20374-5060, telephone (202) 433-2210.

**SUPPLEMENTARY INFORMATION:** This notice of open meeting is provided in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2). The purpose of these meetings is to review naval historical activities since the last meeting of the Advisory Subcommittee on Naval History and to make comments

and recommendations on these activities to the Secretary of the Navy.

Dated: August 26, 2003.

**S. K. Melancon,**

*Paralegal Specialist, Office of the Judge Advocate General, Alternate Federal Register Liaison Officer.*

[FR Doc. 03-22597 Filed 9-4-03; 8:45 am]

**BILLING CODE 3810-FF-P**

## DEPARTMENT OF EDUCATION

### President's Board of Advisers on Historically Black Colleges and Universities

**AGENCY:** President's Board of Advisers on Historically Black Colleges and Universities, Education.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of an upcoming meeting of the President's Board of Advisers on Historically Black Colleges and Universities (Board). The notice also describes the functions of the Board. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

**DATES:** Thursday, September 18, 2003. *Time:* 8 a.m.-3 p.m.

**ADDRESSES:** The Board will meet in Arlington, VA at the Marriott Crystal Gateway Hotel, 1700 Jefferson Davis Highway, Arlington, VA.

**FOR FURTHER INFORMATION CONTACT:** Dr. Leonard Dawson, Deputy Director to the Counselor to the Secretary for the White House Initiative on Historically Black Colleges and Universities, 1990 K Street, NW., Washington, DC 20202; telephone: (202) 502-7889.

**SUPPLEMENTARY INFORMATION.** The President's Board of Advisers on Historically Black Colleges and Universities is established under Executive Order 13256, dated February 12, 2003. The Board is established (a) to report to the President annually on the results of the participation of historically black colleges and universities (HBCUs) in Federal programs, including recommendations on how to increase the private sector role, including the role of private foundations, in strengthening these institutions, with particular emphasis on enhancing institutional planning and development, strengthening fiscal stability and financial management, and improving institutional infrastructure, including the use of technology, to ensure the long-term viability and enhancement of these institutions; (b) to

advise the President and the Secretary of Education (Secretary) on the needs of HBCUs in the areas of infrastructure, academic programs, and faculty and institutional development; (c) to advise the Secretary in the preparation of an annual Federal plan for assistance to HBCUs in increasing their capacity to participate in Federal programs; (d) to provide the President with an annual progress report on enhancing the capacity of HBCUs to serve their students; and (e) to develop, in consultation with the Department of Education and other Federal agencies, a private sector strategy to assist HBCUs.

The purpose of the meeting is to report on the status of recommendations made by the Board at the May 28, 2003 meeting; to discuss reauthorization of the Higher Education Act, plans and reports from the Private Sector Initiative, and preparation for the Annual Report to the President; and to address critical issues facing HBCUs.

Individuals who will need accommodations for a disability in order to attend the meeting (e.g., interpreting services, assistive listening devices, or material in alternative format) should notify Barbara Lindler at (202) 502-7894 no later than September 8, 2003. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

An opportunity for public comment is available on September 18, 2003, between 2 p.m. and 3 p.m. Those members of the public interested in submitting written comments may do so at the address indicated above by Friday, September 12, 2003.

Records are kept of all Board proceedings and are available for public inspection at the office of the White House Initiative on Historically Black Colleges and Universities from the hours of 9 a.m. to 5 p.m.

**Rod Paige,**

*Secretary, Department of Education.*

[FR Doc. 03-22607 Filed 9-4-03; 8:45 am]

**BILLING CODE 4000-01-M**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Reliant Energy Desert Basin, LLC, et al.; Electric Rate and Corporate Filings

August 27, 2003.

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

**1. Reliant Energy Desert Basin, LLC**

[Docket No. EC03-129-000]

Take notice that on August 22, 2003, Reliant Energy Desert Basin, LLC (Reliant Desert Basin) filed an Application for Authorization Under section 203 of the Federal Power Act and Request for Expedited Action and Shortened Public Notice Period. Reliant Desert Basin requests that the Commission grant all necessary authorizations to transfer certain jurisdictional facilities to Salt River Project Agricultural Improvement and Power District.

*Comment Date:* September 12, 2003.**2. Black Hills Corporation**

[Docket No. EC03-130-000]

Take notice that on August 22, 2003, Black Hills Corporation filed an application with FERC requesting authorization under section 203 of the Federal Power Act to implement a plan of internal corporate restructuring.

*Comment Date:* September 12, 2003.**3. Oklahoma Gas and Electric Company and NRG McClain LLC**

[Docket No. EC03-131-000]

Take notice that on August 26, 2003, Oklahoma Gas and Electric Company (OG&E) and NRG McClain LLC (NRG McClain) filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to section 203 of the Federal Power Act for authorization for NRG McClain to sell, and OG&E to acquire, NRG McClain's 77 percent interest in the 520 megawatt McClain Energy Generating Facility and associated transmission equipment located near Oklahoma City, Oklahoma.

*Comment Date:* September 16, 2003.**4. Texas Genco, LP**

[Docket No. EG03-96-000]

Take notice that on August 25, 2003, Texas Genco, LP (Texas Genco) tendered for filing an application for a determination of exempt wholesale generator status, pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended, (PUHCA), 15 U.S.C. 79z-5a(a)(1) (2000), and subchapter T, part 365 of the regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR part 365. Texas Genco states that it is a limited partnership organized and existing under the laws of the State of Texas that owns and operates twelve electric generating facilities, with an aggregate maximum capacity of approximately 14,000 megawatts, located in Texas. Texas Genco further states that it will be engaged directly, or indirectly through one or more affiliates

as defined in section 2(a)(11)(B) of PUHCA, and exclusively in the business of owning eligible facilities, and selling electric energy at wholesale.

*Comment Date:* September 17, 2003.**5. Midwest Independent Transmission System Operator, Inc.**

[Docket No. EL02-111-005]

Take notice that on August 22, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted proposed revisions Schedules 7, 8 and 14 of the Midwest ISO Open Access Transmission Tariff (Tariff), FERC Electric Tariff, Second Revised Volume No. 1, in compliance with the Commission's July 23, 2003 Order on Initial Decision, 104 FERC 61,105 (2003), in which the Commission directed the Midwest ISO and PJM Interconnection, Inc. (PJM) to eliminate the Regional Through and Out Rates under their Tariffs for transactions that sink in the Midwest ISO/PJM footprint, effective November 1, 2003.

The Midwest ISO has also requested waiver of the service requirements set forth in 18 CFR 385.2010. The Midwest ISO states that it has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, as well as all state commissions within the region. Midwest ISO also states that in addition, the filing has been electronically posted on the Midwest ISO's Web site at <http://www.midwestiso.org> under the heading "Filings to FERC" for other interested parties in this matter and that it will provide hard copies to any interested parties upon request.

*Comment Date:* September 29, 2003.**6. California Power Exchange Corporation**

[Docket No. EL03-223-000]

Take notice that on August 21, 2003, the California Power Exchange Corporation (CalPX) filed with the Federal Energy Regulatory Commission, a Petition for Declaratory Order. The Petition requests Commission approval for CalPX to enter into a settlement with American House Assurance Company on a performance bond covering defaults in its Core Market. CalPX states that the proposed settlement provides for the payment of \$7.5 million into CalPX's Settlement Clearing Account.

*Comment Date:* September 22, 2003.**7. California Independent System Operator Corporation**

[Docket No. ER03-407-004]

Take notice that on August 25, 2003, the California Independent System Operator Corporation (ISO), submitted a filing in compliance with the Commission's July 25, 2003 Order in Docket Nos. ER03-407-002 and 003, 104 FERC 61,128.

The ISO states that this filing has been served upon all parties in the above referenced proceeding, and has been posted on the ISO Home Page.

*Comment Date:* September 15, 2003.**8. Devon Power Company**

[Docket No. ER03-563-017]

Take notice that on August 25, 2003, ISO New England Inc. (ISO) submitted a Compliance Filing as directed by the Commission in its July 24, 2003 Order on Rehearing and Compliance, 104 FERC 61,123. The ISO states that copies of the filing have been served on all parties in this proceeding.

*Comment Date:* September 15, 2003.**9. ISO New England Inc.**

[Docket No. ER03-854-002]

Take notice that on August 25, 2003, ISO New England Inc. (ISO) submitted a Compliance Filing as directed by the Commission in its July 25, 2003 Order Accepting Scarcity Pricing Proposal, 104 FERC 61,130. The ISO states that copies of the filing have been served on all parties on the Service List for Docket No. ER03-854.

*Comment Date:* September 15, 2003.**10. Direct Commodities Trading (DCT) Inc.**

[Docket No. ER03-1162-001]

Take notice that on August 25, 2003, Direct Commodities Trading (DCT) Inc. (DCT) filed a supplement to its application filed August 5, 2003 for market-based rates as a power marketer. DCT states that the supplemental information pertains to formatting and presentation of Rate Schedule FERC No. 1.

*Comment Date:* September 8, 2003.**11. California Independent System Operator Corporation**

[Docket No. ER03-1222-001]

Take notice that on August 20, 2003, the California Independent System Operator Corporation (ISO), tendered for filing an errata concerning Amendment No. 57 to the ISO Tariff, which the ISO filed for acceptance by the Commission on August 18, 2003, in Docket No. ER03-1222-000.

The ISO states that this filing has been served on the Public Utilities

Commission of California, the California Energy Commission, the California Electricity Oversight Board, the Participating TOs, Trans-Elect, and all parties with effective Scheduling Coordinator Agreements under the ISO Tariff.

*Comment Date:* September 10, 2003.

### 12. Wisconsin Electric Power Company

[Docket No. ER03-1240-000]

Take notice that on August 22, 2003, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing a revised Power Service Agreement (PSA) between Wisconsin Electric and the City of Crystal Falls, Michigan (City) modifying the price for energy Wisconsin Electric charges the City. Wisconsin Electric states that the revision to the energy price is being made pursuant to section 2.05 of the PSA. Wisconsin Electric and the City request that the Commission approve the revised PSA to become effective on August 25, 2003.

*Comment Date:* September 12, 2003.

### 13. Tampa Electric Company

[Docket No. ER03-1242-000]

Take notice that on August 22, 2003, Tampa Electric Company (Tampa Electric) tendered for filing a Notice of Cancellation of a transaction-specific service agreement with the Reedy Creek Improvement District under Tampa Electric's market-based sales tariff. Tampa Electric proposes that the cancellation be made effective on August 22, 2003.

Tampa Electric states that copies of the filing have been served on RCID and the Florida Public Service Commission.

*Comment Date:* September 12, 2003.

### 14. Southern California Edison Company

[Docket No. ER03-1243-000]

Take notice that on August 25, 2003, Southern California Edison Company (SCE) tendered for filing an Amended and Restated Interconnection Facilities Agreement (A&RIFA) between High Desert Power Project, LLC (HDPP) and SCE. SCE states that the A&RIFA specifies the final terms and conditions pursuant to which SCE will interconnect 850 MW of generation to the California Independent System Operator Controlled Grid pursuant to SCE's Transmission Owner Tariff, FERC Electric Tariff, Second Revised Original Volume No. 6. SCE also states that the A&RIFA will replace, in its entirety, the Interconnection Facilities Agreement between SCE and High Desert Power Trust accepted as Service Agreement No. 11 under SCE's Transmission

Owner Tariff in Docket No. ER02-1073-000. SCE states that because of disputes over certain issues between SCE and HDPP, HDPP has requested that SCE file the A&RIFA unexecuted. SCE requests that the A&RIFA become effective one day after filing.

SCE states that copies of this filing were served upon the Public Utilities Commission of the State of California and HDPP.

*Comment Date:* September 15, 2003.

### 15. Virginia Electric and Power Company

[Docket No. ER03-1244-000]

Take notice that on August 25, 2003, Virginia Electric and Power Company, doing business as Dominion Virginia Power (the Company), tendered for filing copies of a letter agreement between Virginia Electric and Power Company, doing business as Dominion Virginia Power (the Company), and Virginia Municipal Electric Association No. 1 (VMEA). The Company states that the letter agreement, dated June 16, 2003, adds a new point of delivery to the Agreement for the Purchase of Electricity for Resale between VMEA and the Company, First Revised Rate Schedule FERC No. 109.

The Company requests waiver of the Commission's notice of filing requirements to allow the letter agreement to become effective on October 15, 2003, the earliest date upon which all of the facilities necessary to provide service under the letter agreement will be completed. The Company states that copies of the filing were served upon VMEA, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

*Comment Date:* September 15, 2003.

### 16. California Independent System Operator Corporation

[Docket No. ER03-1245-000]

Take notice that on August 25, 2003, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1 to the Participating Generator Agreement between the ISO and Energia Azteca X, S. de R.L. de C.V (EAX) for acceptance by the Commission.

The ISO states that this filing has been served on EAX and the California Public Utilities Commission. The ISO is requesting waiver of the 60-day notice requirement to allow Amendment No. 1 to the Participating Generator Agreement to be made effective July 15, 2003.

*Comment Date:* September 15, 2003.

### 17. Southwestern Electric Power Company

[Docket No. ER03-1246-000]

Take notice that on August 25, 2003, Southwestern Electric Power Company (SWEPCO) filed a Restated and Amended Power Supply Agreement (Restated Agreement) between SWEPCO and Tex-La Electric Cooperative of Texas, Inc. (Tex-La). SWEPCO states that the Restated Agreement supersedes in its entirety the Power Supply Agreement, dated July 31, 1997, as amended, between SWEPCO and Tex-La.

SWEPCO seeks an effective date of June 15, 2000 and, accordingly, seeks waiver of the Commission's notice requirements. SWEPCO states that copies of the filing have been served on Tex-La and on the Public Utility Commission of Texas.

*Comment Date:* September 15, 2003.

### 18. Florida Power Corporation Progress Energy Florida, Inc.

[Docket No. SC03-1-000]

Take notice that on August 13, 2003, Florida Power Corporation (FPC) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Notice of Withdrawal of its April 2, 2003 application to recover stranded costs from the City of Casselberry, Florida.

*Comment Date:* September 10, 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 filed to access the document. For assistance, call (202) 502-8222 or TTY, (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. 03-22625 Filed 9-4-03; 8:45 am]

BILLING CODE 6717-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[OW-2003-0009; FRL-7553-4]

### Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; National Pretreatment Program, EPA ICR Number 0002.11, OMB Control Number 2040-0009

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on September 30, 2003. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

**DATES:** Additional comments may be submitted on or before October 6, 2003.

**ADDRESSES:** Submit your comments, referencing docket ID number OW-2003-0009, to (1) EPA online using EDOCKET (our preferred method), by e-mail to [OW-Docket@epa.gov](mailto:OW-Docket@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, Office of Water, Mail code: 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Tracy Hudak, Office of Water, Mail code: 4203M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-0651; fax number:

(202) 564-6431; e-mail address:

[Hudak.Tracy@epamail.epa.gov](mailto:Hudak.Tracy@epamail.epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On April 3, 2003 (68 FR 16282), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA has addressed the comments received.

EPA has established a public docket for this ICR under Docket ID No. OW-2003-0009, which is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to [www.epa.gov/edocket](http://www.epa.gov/edocket).

*Title:* National Pretreatment Program.

*Abstract:* This Information Collection Request (ICR) calculates the burden and

costs associated with managing the National Pretreatment Program, mandated by sections 402(a) and (b) and 307(b) of the Clean Water Act.

EPA's Office of Wastewater Management (OWM) in the Office of Water (OW) is responsible for the management of the pretreatment program. The Clean Water Act requires EPA to develop national pretreatment standards to control discharges from Industrial Users (IUs) into Publicly Owned Treatment Works (POTWs). These standards limit the level of certain pollutants allowed in non-domestic wastewater that is discharged to a POTW. EPA administers the pretreatment program through the National Pollutant Discharge Elimination System (NPDES) permit program. Under the NPDES permit program, EPA may approve State or individual POTW implementation of the pretreatment standards at their respective levels. Data collected from IUs during implementation of the pretreatment program include the mass, frequency, and content of IU discharges and IU schedules for installing pretreatment equipment. Data also include actual or anticipated IU discharges of wastes that violate pretreatment standards, have the potential to cause problems at the POTW, or are considered hazardous under the Resource Conservation and Recovery Act (RCRA). OWM uses the data collected under the pretreatment program to monitor and enforce compliance with the pretreatment regulations, as well as to authorize program administration at the State or local (POTW) level. States and POTWs applying for approval of their pretreatment programs submit data concerning their legal, procedural, and administrative bases for establishing such programs. This information may include surveys of IUs, local limits for pollutant concentrations, and schedules for completion of major project requirements. IUs and POTWs submit written reports to the approved state or EPA. These data may then be entered into the NPDES databases by the approved state or by EPA.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 10

hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

*Respondents/Affected Entities:*

Various industrial categories, local, State and Federal governments.

*Estimated Number of Respondents:* 28,285.

*Frequency of Response:* On occasion, semi-annually, annually, and as needed.

*Estimated Total Annual Hour Burden:* 2,161,679.

*Estimated Total Annual Cost:* \$85,949,203, includes \$0 annualized capital or O&M costs.

*Changes in the Estimates:* There is a decrease of 685,488 hours in the total estimated burden currently identified in the OMB Inventory of approved ICR burdens. This decrease is due mainly to an adjustment in the estimate of the number of Industrial Users and a change in the number of effluent guidelines for which the pretreatment program assumes reporting and recordkeeping burden.

Dated: August 25, 2003.

**Doreen Sterling,**

*Acting Director, Collection Strategies Division.*

[FR Doc. 03-22640 Filed 9-4-03; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[OW-2003-0026-; FRL-7553-5]

**Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; National Water Quality Inventory Reports (Clean Water Act Sections 305(b), 303(d), 314(a), and 106(e)), EPA ICR Number 1560.07, OMB Control Number 2040-0071**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on October 31, 2003. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

**DATES:** Additional comments may be submitted on or before October 6, 2003.

**ADDRESSES:** Submit your comments, referencing docket ID number OW-2003-0026, to (1) EPA online using EDOCKET (our preferred method), by e-mail to [OW-Docket@epa.gov](mailto:OW-Docket@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** John Wilson, Assessment and Watershed Protection Division, Office of Water, Mail Code 4503T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202-566-1158; fax number: 202-566-1331; e-mail address: [wilson.john@epa.gov](mailto:wilson.john@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 21, 2003 (68 FR 27793), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OW-2003-0026, which is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listing of

the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to [www.epa.gov/edocket](http://www.epa.gov/edocket).

*Title:* National Water Quality Inventory Reports (Clean Water Act Sections 305(b), 303(d), 314(a), and 106(e)).

*Abstract:* Section 303(d) of the Clean Water Act requires States to identify and rank waters which cannot meet water quality standards (WQS) following the implementation of technology-based controls. Under section 303(d), States are also required to establish total maximum daily loads (TMDLs) for listed waters not meeting standards as a result of pollutant discharges. In developing the section 303(d) lists, States are required to consider various sources of water quality related data and information, including the section 305(b) State water quality reports. The section 305(b) reports contain information on the extent of water quality degradation, the pollutants and sources affecting water quality, and State progress in controlling water pollution. EPA's Assessment and Watershed Protection Division (AWPD) works with its Regional counterparts to review and approve or disapprove State section 303(d) lists and TMDLs.

This announcement includes the reapproval of current, ongoing activities related to sections 305(b) and 303(d) reporting and TMDL development for

the period of August 1, 2003 through July 31, 2006. During the period covered by this ICR renewal, respondents will: Complete their 2004 section 305(b) reports and 2004 section 303(d) lists; complete their 2006 section 305(b) reports and 2006 section 303(d) lists; transmit annual electronic updates of their section 305(b) databases in 2003 through 2006; and continue to develop TMDLs according to their established schedules. EPA will prepare two biennial Reports to Congress: one in 2003, one in 2005, and EPA will review TMDL submissions from respondents.

The respondent community for section 305(b) reporting consists of 50 States, the District of Columbia, 5 Territories (Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands), and 3 River Basin Commissions. The Ohio River Valley Sanitation Commission, the Delaware River Basin Commission, and the Interstate Sanitation Commission have jurisdiction over basins that lie in multiple States. Indian Tribes are exempt from the section 305(b) reporting requirement, but some Tribes choose to participate as a way of presenting assessments and water quality issues to the public and Congress. One Tribe or Tribal Group prepared section 305(b) reports in 1996 and 1997. However, since Tribal section 305(b) reporting is a voluntary effort, it is not included in the burden estimates for this ICR.

The respondent community for section 303(d) activities consists of 50 States, the District of Columbia, and 5 Territories (Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands). Although Indian Tribes can be authorized to meet section 303(d) requirements, none are currently authorized nor have applied for authorization. Further, very few Tribes have established water quality standards, and EPA is currently in the process of preparing standards where they are needed. Therefore, we assume that there would be no burden to Indian Tribes over the period covered by this ICR for section 303(d) activities.

The burden of specific activities that States undertake as part of their sections 305(b) and 303(d) programs are derived from an ongoing project among EPA, States and other interested stakeholders to develop a tool for estimating the States' resource needs for State water quality management programs. This project has developed the State Water Quality Management Workload Model (SWQMWM), which estimates and sums the workload involved in more than one hundred activities or tasks comprising a

State water quality management program. Over twenty States have contributed information about their activities that became the basis for the model. According to the SWQMWM, the States will carry out the following activities or tasks to meet the sections 305(b) and 303(d) reporting requirements: Watershed characterization; modeling and analysis; development of a TMDL document for public review; public outreach; formal public participation; tracking; planning; legal support; *etc.* In general, respondents have conducted each of these reporting and record keeping activities for past sections 305(b) and 303(d) reporting cycles and thus have staff and procedures in place to continue their sections 305(b) and 303(d) reporting programs. The burden associated with these tasks is estimated in this ICR to include the total number of TMDLs that may be submitted during the period covered by this ICR.

The biennial frequency of the collection is mandated by section 305(b)(1) of the CWA. Section 305(b) originally required respondents to submit water quality reports on an annual basis. In 1977, the annual requirement was amended to a biennial requirement in the CWA. EPA has determined that abbreviated reporting for hard-copy section 305(b) reports, combined with annual electronic reporting using respondent databases, will meet the CWA reporting requirements while reducing burden to respondents. The biennial period with annual electronic reporting ensures that information needed for analysis and water program decisions is reasonably current, yet abbreviated reporting requirements provides respondents with sufficient time to prepare the reports.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

**Burden Statement:** For the 3 respondents that have section 305(b) responsibility only the annual public reporting and recordkeeping burden for this collection of information is estimated to average 3,659 hours. For the 56 other respondents with both sections 305(b) and 303(d) responsibilities the annual public reporting and recordkeeping burden for this collection of information is estimated to average 66,590 hours. Burden means the total time, effort, or financial resources expended by persons

to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**Respondents/Affected Entities:** States, District of Columbia, Territories, River Basin commissions, and Indian Tribes.

**Estimated Number of Respondents:** 59.

**Frequency of Response:** Biannually.

**Estimated Total Annual Hour Burden:** 3,740,017.

**Estimated Total Annual Cost:** \$155,322,906, includes \$0 annualized capital or O&M costs.

**Changes in the Estimates:** There is a decrease of 749,130 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to: Adjustment Changes in Burden for sections 305(b) and 303(d) reporting. The total annual respondent burden for sections 305(b) and 303(d) reporting has increased from ICR 1560.05 and 1560.06 due to improved estimates of respondent activity.

Dated: August 27, 2003.

**Doreen Sterling,**

*Acting Director, Collection Strategies Division.*

[FR Doc. 03-22641 Filed 9-4-03; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[RCRA-2002-0024; FRL-7553-7]

**Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; The 2003 Hazardous Waste Report, EPA ICR Number 0976.11, OMB Control Number 2050-0024**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request

(ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request for a renewal of an existing approved collection. This ICR is scheduled to expire on June 30, 2003. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

**DATES:** Additional comments may be submitted on or before October 6, 2003.

**ADDRESSES:** Submit your comments, referencing docket ID number RCRA-2002-0024, to (1) EPA online using EDOCKET (our preferred method), by e-mail to [RCRA-docket@epa.gov](mailto:RCRA-docket@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, RCRA Docket, Mail Code 5305T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:**

Dave Levy, Office of Solid Waste, Mail Code 5303W, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703-308-8479; fax number: 703-308-8433; e-mail address: [levy.dave@epa.gov](mailto:levy.dave@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 18, 2003 (68 FR 12902), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA has addressed the comments received.

EPA has established a public docket for this ICR under Docket ID No. RCRA-2002-0024, which is available for public viewing at the RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the RCRA Docket is (202) 566-0270. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>.

Please use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available

electronically. Once in the system, select "search," then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to [www.epa.gov/edocket](http://www.epa.gov/edocket).

**Title:** The 2003 Hazardous Waste Report.

**Abstract:** This ICR renews an ongoing information collection from hazardous waste generators and hazardous waste treatment, storage, or disposal facilities. This collection is done on a two-year cycle as required by sections 3002 and 3004 of the Resource Conservation and Recovery Act (RCRA). The information is collected via a mechanism known as the Hazardous Waste Report for the required reporting year (EPA Form 8700-13 A/B)(also known as the Biennial Report). Both RCRA sections 3002 and 3004 require EPA to establish standards for recordkeeping and reporting of hazardous waste. Section 3002 applies to hazardous waste generators and section 3004 applies to hazardous waste treatment, storage, and disposal facilities. The implementing regulations are found at 40 CFR 262.40(b) and (d); 262.41(a)(1)-(5), (a)(8), and (b); 264.75(a)-(e) and (j); 265.75(a)-(e) and (j); and 270.30(l)(9). This is mandatory reporting by the respondents.

The respondents' submissions (reports) describe each generated hazardous waste, the activity by which they generated the waste, and the waste quantity; the reports also list the management method by which each waste is treated, recycled, or disposed and the quantity managed. There are a

number of uses of Biennial Report data. EPA uses Biennial Report data for planning and developing regulations, compliance monitoring, and enforcement. Also, Biennial Report data allows the Agency to determine whether its regulations are having the desired effect on the generation and management of hazardous waste. For example, Biennial Report data provides information on whether waste management has shifted from one method of disposal to another. Some State uses of Report data include support of planning, fee assessment, compliance monitoring, and enforcement.

Some businesses consider some of their hazardous waste information to be Confidential Business Information (CBI). A business may, if it desires, protect its Biennial Report information from public disclosure by asserting a claim of confidentiality covering all or part of its information. When a claim is made EPA will treat the information in accordance with the confidentiality regulations in 40 CFR part 2, subpart B. EPA also ensures that the information collection procedures comply with the Privacy Act of 1974 and OMB Circular 108.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

**Burden Statement:** The annual public reporting and recordkeeping burden for this collection of information is estimated to average about 19 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**Respondents/Affected Entities:** Those facilities which generate, treat, store, recycle, or dispose of hazardous waste.

**Estimated Number of Respondents:** 10,178.

*Frequency of Response:* Biennially.  
*Estimated Total Annual Hour Burden:* 196,976.

*Estimated Total Annual Cost:* \$10,311,438, includes \$0 annualized capital and \$25,336 O&M costs.

*Changes in the Estimates:* There is an increase of 8,352 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is due to several reasons. Based on reported data for the 2001 Hazardous Waste Report, EPA estimates a slight increase in the number of respondents, an additional 42; we estimate the increase in the number of submitted forms to be 15,218. The completion of the RCRA Subtitle C Site Identification Form will require an estimated additional 20 minutes. This has resulted in a minor increase for those manually filling out the forms (resulting in an approximately one percent annual burden reduction to the regulated community overall).

Dated: August 12, 2003.

**Doreen Sterling,**

*Acting Director, Collection Strategies Division.*

[FR Doc. 03-22642 Filed 9-4-03; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[OEI-2003-0003; FRL-7553-6]

### Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Confidentiality Rules, EPA ICR Number 1665.06, OMB Control Number 2020-0003

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The current ICR is scheduled to expire on September 30, 2003. Under OMB regulations, EPA may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This renewal notice describes the nature of the information collection and its estimated burden and cost.

**DATES:** Additional comments may be submitted on or before October 6, 2003.

**ADDRESSES:** Submit your comments, referencing docket ID number OEI-2003-0003, to (1) EPA online using EDOCKET (our preferred method), by e-mail to [oei.docket@epa.gov](mailto:oei.docket@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, OEI Docket, (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Kohn, Collection Strategies Division, Office of Information Collection (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 566-1407; fax number: (202) 566-1639; e-mail address: [kohn.jeffrey@epa.gov](mailto:kohn.jeffrey@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has submitted this renewal ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On April 10, 2003 (68 FR 17631), EPA sought comments on this renewal ICR pursuant to 5 CFR 1320.8(d). EPA has received and addressed comments from one organization.

EPA has established a public docket for this renewal ICR under Docket ID No. OEI-2003-0003, which is available for public viewing at the OEI Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone and fax numbers for the OEI Docket are (202) 566-1752 and (202) 566-1753, respectively. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified above.

Any comments related to this renewal ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public

disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to <http://www.epa.gov/edocket>.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

*Title:* Confidentiality Rules (OMB Control No. 2020-0003; EPA ICR No. 1665.06), expiring September 30, 2003.

*Abstract:* EPA administers a number of environmental protection statutes (*e.g.*, the Clean Water Act; the Clean Air Act; the Toxic Substances Control Act; the Resource Conservation and Recovery Act; and the Comprehensive Environmental Response, Compensation, and Liability Act), under which the Agency collects information from thousands of facilities in many economic sectors. In addition, businesses submit information to EPA without the Agency requesting it. The information addresses topics such as toxic chemicals, industrial processes, waste streams, and regulatory compliance. In many cases, businesses that submit information claim it to be confidential business information (CBI).

EPA established the procedures described in 40 CFR part 2, subparts A and B to protect the confidentiality of information as well as the rights of the public to obtain access to the information under the Freedom of Information Act (FOIA). In accordance with these regulations, when EPA finds it necessary to make a final confidentiality determination (*e.g.*, in response to a FOIA request or in the course of rulemaking or litigation), or an advance confidentiality determination, it notifies the affected business by sending a letter requesting substantiation of the confidentiality claim. This letter provides the affected business with an opportunity to submit

comments (*i.e.*, a substantiation). EPA then considers the business's comments in determining whether the previously submitted information should be protected as CBI. This renewal ICR relates to the collection of information that will assist EPA in determining whether previously submitted information is entitled to confidential treatment.

EPA is proposing to use an updated Request for Substantiation letter ("proposed letter"). The proposed letter is made up of two separate sample letters that address different factual situations: Sample Letter A, which requests a substantiation in response to a FOIA request, and Sample Letter B, which requests a substantiation in support of Agency rulemaking or litigation, in the case of an advance confidentiality determination, or for any other Agency purpose. The use of two letters is a clarification of existing EPA procedures. Some of the information requested differs slightly from the current Request for Substantiation letter, concerning the possible voluntary nature of the submission and the issue of substantial competitive harm, and takes into account the vast amount of information now available electronically. Nevertheless, EPA estimates that the overall burden to respond to inquiries contained in the proposed letter is the same as the burden to respond to inquiries contained in the current Request for Substantiation letter.

**Burden Statement:** The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

*The total annual hour and cost burden for all substantiations is as follows:*

**Respondents/Affected Entities:** Business and other for profit organizations.

**Estimated Number of Respondents:** 1101.

**Frequency of Response:** On occasion.  
**Estimated Total Annual Hour Burden:** 6,521 hours.

**Estimated Total Annual Capital and Operations and Maintenance Cost:** \$0.

**Changes in the Estimates:** These estimates show an increase of approximately 89 hours and \$27,973 in the total estimated burden from the figures currently identified in the OMB Inventory of Approved ICR Burdens. The increase in the burden hour estimate results from an adjustment to incorporate 0.20 hours per substantiation request for an attorney to review the request. The increase in cost burden results from this small increase in the hour estimate and from updated hourly wages for private industry and Agency employees.

Dated: August 12, 2003.

**Andrew Battin,**

*Director, Collection Services Division.*

[FR Doc. 03-22643 Filed 9-4-03; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[OAR-2003-0181; FRL-7553-8]

### Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Information Requirements for Importation of Nonconforming Vehicles, EPA ICR Number 0010.10, OMB Control Number 2060-0095

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on August 31, 2003. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

**DATES:** Additional comments may be submitted on or before October 6, 2003.

**ADDRESSES:** Submit your comments, referencing docket ID number OAR-2003-0181, to (1) EPA online using EDOCKET (our preferred method), by e-mail to [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov), or by

mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket and Information Center, Mail Code 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Chestine Payton, Certification and Compliance Division, Outreach and Planning Group, Mail Code 6405J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-9328; fax number: (202) 565-2057; e-mail address: [payton.chestine@epa.gov](mailto:payton.chestine@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 8, 2003 (68 FR 24736), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OAR-2003-0181, which is available for public viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566-1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing

copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's Federal Register notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to [www.epa.gov/edocket](http://www.epa.gov/edocket).

**Title:** Information Requirements for Importation of Nonconforming Vehicles.

**Abstract:** Individuals and businesses importing motor vehicles and motor vehicle engines, and nonroad compression ignition engines greater than 50 horsepower (large CI nonroad engines), which are predominantly used in construction equipment and farm tractors, report and keep records of vehicle importations, or request final admission for vehicles conditionally imported into the U.S. The collection of this information is mandatory in order to ensure compliance of nonconforming vehicles with Federal emissions requirements. Joint EPA and Customs regulations at 40 CFR 85.1501 *et seq.*, 89.601 *et seq.*, 90.601 *et seq.*, and 19 CFR 12.73 and 12.74 promulgated under the authority of Clean Air Act sections 203 and 208 give authority for the collection of information. This authority was extended to nonroad engines under section 213(d). The information is used by program personnel to ensure that all Federal emission requirements concerning imported nonconforming motor vehicles and nonroad engines are met. Any information submitted to the Agency for which a claim of confidentiality is made is safeguarded according to policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information (see CFR 2), and the public is not permitted access to information containing personal or organizational identifiers.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

**Burden Statement:** The annual public reporting and recordkeeping burden for this collection of information is

estimated to average 0.7 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**Respondents/Affected Entities:** Individuals and businesses importing motor vehicles and motor vehicle engines.

**Estimated Number of Respondents:** 13,000.

**Frequency of Response:** Other—upon importation.

**Estimated Total Annual Hour Burden:** 15,800.

**Estimated Total Annual Cost:** \$1,664,000, which includes \$0 annualized capital and \$1,266,000 O&M costs.

**Changes in the Estimates:** There is an increase of 1,400 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is due to an increase in the number of engines tested and the associated cost.

Dated: August 22, 2003.

**Doreen Sterling,**

*Acting Director, Collection Strategies Division.*

[FR Doc. 03-22644 Filed 9-4-03; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[OAR-2003-0042; FRL-7554-2]

### Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Reporting and Recordkeeping Requirements for Importation of Nonconforming Nonroad Compression Ignition (CI) and Small Spark Ignition (SI) Engines, EPA ICR Number 1673.04, OMB Control Number 2060-0294

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on August 31, 2003. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

**DATES:** Additional comments may be submitted on or before October 6, 2003.

**ADDRESSES:** Submit your comments, referencing docket ID number OAR-2003-0042, to (1) EPA online using EDOCKET (our preferred method), by e-mail to [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket and Information Center, Mail Code 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Chestine Payton, Certification and Compliance Division, Outreach and Planning Group, Mail Code 6405J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-9328; fax number: (202) 565-2057; e-mail address: [payton.chestine@epa.gov](mailto:payton.chestine@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 8, 2003 (68 FR 24736), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OAR-2003-0042, which is available for public viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket and Information

Center is (202) 566-1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to [www.epa.gov/edocket](http://www.epa.gov/edocket).

**Title:** Reporting and Recordkeeping Requirements for Importation of Nonconforming Nonroad Compression Ignition (CI) and Small Spark Ignition (SI) Engines.

**Abstract:** Individuals and businesses importing on and off-road motor vehicles, motor vehicle engines, or nonroad engines, including nonroad engines incorporated into nonroad equipment or nonroad vehicles, report and keep records of vehicle importations, request prior approval for vehicle importations, or request final admission for vehicles conditionally imported into the U.S. The collection of this information is mandatory in order to ensure compliance of nonconforming vehicles with Federal emissions requirements. Joint EPA and Customs regulations at 40 CFR 85.1501 *et seq.*, 89.601 *et seq.*, 90.601 *et seq.*, and 19 CFR 12.73 and 12.74 promulgated under the authority of Clean Air Act sections 203 and 208 give authority for the collection of information. This authority was extended to nonroad engines under

section 213(d). The information is used by program personnel to ensure that all Federal emission requirements concerning imported nonconforming motor vehicles and nonroad engines are met.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

**Burden Statement:** The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**Respondents/Affected Entities:** Individuals and businesses importing compression-ignition nonroad engines and small spark-ignition nonroad engines, including those incorporated into nonroad equipment or vehicles.

**Estimated Number of Respondents:** 1,500.

**Frequency of Response:** Other—upon importation.

**Estimated Total Annual Hour Burden:** 77,386.

**Estimated Total Annual Cost:** \$5,219,175, which includes \$0 annualized capital and O&M costs.

**Changes in the Estimates:** There is an increase of 1,993 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is due to an increase in the number of engines tested and the associated cost.

Dated: August 28, 2003.

**Doreen Sterling,**

*Acting Director, Collection Strategies Division.*

[FR Doc. 03-22649 Filed 9-4-03; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### Environmental Impact Statements; Notice of Availability

**Responsible Agency:** Office of Federal Activities, General Information (202) 564-7167 or <http://www.epa.gov/compliance/nepa/>. weekly receipt of Environmental Impact Statements Filed August 25, 2003 Through August 29, 2003 Pursuant to 40 CFR 1506.9.

EIS No. 030398, Draft EIS, FRA, FL, Florida High Speed Rail from Tampa to Orlando, Transportation Improvement, NPDES Permit and U.S. Army COE Section 404 Permit, Hillsborough, Orange, Osceola and Polk Counties, FL, Comment Period Ends: October 20, 2003, Contact: David Valenstein (202) 493-6368.

EIS No. 030399, Draft EIS, EPA, SC, Port Royal Ocean Dredged Material Disposal Site (ODMDS), Designation, SC, Comment Period Ends: October 20, 2003, Contact: Wesley B. Crum (404) 562-9352.

EIS No. 030400, Draft EIS, FHW, LA, Kansas Lane Connector Project, Construction between US Highway 80 (Desiard Street) and U.S. Highway 165 and the Forsythe Avenue Extension, U.S. Army COE Section 10 and 404 Permits, City of Monroe, Quachita Parish, LA, Comment Period Ends: October 31, 2003, Contact: Wayne Nguyen (225) 248-4193.

EIS No. 030401, Draft EIS, FRC, OR, Pelton Round Butte Hydroelectric Project, (FERC No. 2030-036), Application for a New License for Existing 366.82-megawatt Project, Deschutes River, OR, Comment Period Ends: October 20, 2003, Contact: Nicholas Jayjack (202) 502-6073. This document is available on the Internet at: <http://www.ferc.gov>.

EIS No. 030402, Draft EIS, IBR, AZ, Wellton-Mohawk Title Transfer Project, Transfer of the Facilities, Works, and Lands, Wellton-Mohawk Division of the Gila Project, Wellton-Mohawk Irrigation and Drainage District, Yuma County, AZ, Comment Period Ends: November 04, 2003, Contact: Margot Selig (702) 293-8192.

EIS No. 030403, Draft EIS, AFS, OR, North Fork Burnt River Mining Project, Proposal for Mineral Plans of Operation. Implementation, Wallowa-Whitman National Forest, Unity Ranger District, Whitman Unit, Blue Mountains, Town of Unity, Baker County, OR, Comment Period Ends: October 20, 2003, Contact: Wayne Frye (541) 523-1945.

EIS No. 030404, Draft EIS, AFS, WA, Crupina Integrated Weed Management

Project, Control and Eradication of Crupina, Implementation, Okanogan and Wenatchee National Forests, Chelan Ranger District, Chelan County, WA, Comment Period Ends: October 20, 2003, Contact: Mallory Lenz (509) 682-2576.

EIS No. 030405, Final EIS, FHW, MT, U.S. 89 from Fairfield to Dupuyer Corridors Study, Reconstruction, Widening, Realignment and Route Connection between Yellowstone National Park to the South with Glacier National Park to the North, Teton and Pondera Counties, MT, Wait Period Ends: October 06, 2003, Contact: Darrin Grenfell (406) 449-5302.

#### Amended Notices

EIS No. 030266, Draft EIS, EPA, KY, VA, TN, WV, Programmatic—Mountaintop Mining and Valley Fills Program Guidance, Policies or Regulations to Minimize Adverse Environmental Effects to Waters of the U.S. and Fish and Wildlife Resources, Implementation, Appalachia, Appalachian Study Area, WV, KY, VA and TN, Comment Period Ends: January 6, 2004, Contact: John Forren (EPA) (215) 814-2705. Revision of FR Notice Published on 8/22/2003: CEQ Comment Period Ending 9/6/2004 has been Corrected to 1/6/2004.

EIS No. 230392, Draft Supplement, NOA, AK, Programmatic EIS—Alaska Groundfish Fisheries, New Information concerning the Ecosystem and a Preferred Alternative, Fishery Management Plans for the Groundfish Fishery of the Gulf of Alaska and the Groundfish of the Bering Sea and Aleutian Islands Area, North Pacific Fishery Management Council, AK, Comment Period Ends: October 15, 2003, Contact: James W. Balsiger (907) 586-7221. Revision of FR Notice Published on 8/29/2003: Correction of Document Status from Revised Draft to Draft Supplement.

Dated: September 2, 2003.

#### Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 03-22634 Filed 9-4-03; 8:45 am]

BILLING CODE 6560-50-P

### FEDERAL DEPOSIT INSURANCE CORPORATION

#### Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will

meet in open session at 10 a.m. on Friday, September 5, 2003, to consider the following matters:

*Summary Agenda:* No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

#### Discussion Agenda

Memorandum and resolution re: Interim Final Capital Rule for Consolidated Asset-Backed Commercial Paper Program Assets.

Memorandum and resolution re: Notice of Proposed Rulemaking on Capital Requirements for Asset-Backed Commercial Paper Programs and Early Amortization Provisions.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416-2089 (Voice); (202) 416-2007 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Ms. Valerie J. Best, Assistant Executive Secretary of the Corporation, at (202) 898-3742.

Dated: August 29, 2003.

Federal Deposit Insurance Corporation.

**Valerie J. Best,**

*Assistant Executive Secretary.*

[FR Doc. 03-22774 Filed 9-3-03; 1:10 pm]

BILLING CODE 6714-01-M

### FEDERAL MARITIME COMMISSION

#### Sunshine Act; Notice of Meeting

**AGENCY HOLDING THE MEETING:** Federal Maritime Commission.

**TIME AND DATE:** 10 a.m.—September 11, 2003.

**PLACE:** 800 North Capitol Street, NW., First Floor Hearing Room, Washington, DC.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** 1. Fact Finding Investigation No. 25—Practices of Transpacific Stabilization Agreement Members Covering the 2002-2003 Service Contract Season.

2. Practices of the Puerto Rico Ports Authority, *et al.*

**FOR FURTHER INFORMATION CONTACT:** Bryant L. VanBrakle, Secretary, (202) 523-5725.

**Bryant L. VanBrakle,**  
*Secretary.*

[FR Doc. 03-22843 Filed 9-3-03; 3:58 pm]

BILLING CODE 6730-01-M

### FEDERAL RESERVE SYSTEM

#### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](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 September 29, 2003.

**A. Federal Reserve Bank of New York** (Jay Bernstein, Bank Supervision Officer) 33 Liberty Street, New York, New York 10045-0001:

1. *Evergreen Holdings, LLC*, New York, New York; to become a bank holding company by acquiring 65.88 percent of the voting shares of Eastbank Corporation, New York, New York and Eastbank, National Association, New York, New York.

2. *Shinhan Financial Group, Company, Ltd.*, Seoul, Korea; to become

a bank holding company by acquiring 80.04 percent of the voting shares of Chohung Bank, Seoul, Korea, and CHB America Bank, New York, New York.

**B. Federal Reserve Bank of Atlanta** (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. *BancTrust Financial Group, Inc.*, Mobile, Alabama; to merge with CommerceSouth, Inc., Eufaula, Alabama, and thereby indirectly acquire CommerceSouth Bank, Eufaula, Alabama.

**C. Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. *Mercantile Bancorp, Inc.*, Quincy, Illinois; to acquire up to 13.96 percent of the voting shares of NorthStar Bancshares, Inc., Kansas City, Missouri, and thereby indirectly acquire voting shares of NorthStar Bank, National Association, Kansas City, Missouri.

Board of Governors of the Federal Reserve System, August 29, 2003.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 03-22602 Filed 9-4-03; 8:45 am]

BILLING CODE 6210-01-S

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/](http://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 September 18, 2003.

**A. Federal Reserve Bank of Atlanta** (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. *Capitol City Bancshares, Inc.*, Atlanta, Georgia; to engage *de novo* through its subsidiary, Capitol City Home Loans, Inc., Atlanta, Georgia, in making, acquiring, brokering, or servicing loans or other extensions of credit, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, August 29, 2003.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 03-22601 Filed 9-4-03; 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

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[60Day-03-113]

#### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer at (404) 639-7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the

agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

*Proposed Project:* Issues Related to the Use of Mass Media in African-American Women: Phase I—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

### Background

Women's health programs, including the National Breast and Cervical Cancer Early Detection Program (NBCCEDP), offer low-cost or free breast cancer screening to uninsured, low-income women. In 1991, CDC established the NBCCEDP to increase breast and cervical cancer screening among uninsured, underserved, low-income women. To date, over 1.5 million women have received services from NBCCEDP-sponsored programs. Yet NBCCEDP-sponsored programs are estimated to reach only 18% of women 50 years old and older who are eligible for screening services. A research priority for the NBCCEDP is to identify effective strategies to increase enrollment among eligible women who have never received breast or cervical cancer screening. Why women do not participate in this screening is not well understood.

The purpose of this task is to conduct formative research to better understand how low-income African-American women might use TV/radio as sources of health information and identify the particular formats, programs, stations, and hours the targeted woman listen. This task will examine how African-American women get information on community issues, services, and events and determine if these can be used as viable means to disseminate information on health services. The only cost to respondent is their time.

Respondents	Number of respondents	Number of responses/ respondent	Average burden/ response (in hours)	Total burden (in hours)
Black women ages 40–64 (Georgia Residence) .....	180	1	1.5	270
Total .....				270

Dated: August 28, 2003.

**Nancy E. Cheal,**

*Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.*

[FR Doc. 03–22615 Filed 9–4–03; 8:45 am]

**BILLING CODE 4163–18–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

[60Day–03–115]

**Proposed Data Collections Submitted for Public Comment and Recommendations**

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and

instruments, call the CDC Reports Clearance Officer at (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

*Proposed Project: Severe Acute Respiratory Syndrome (SARS) Outbreak Investigation (0920–0956)—Extension—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC). The purpose of this project is to prepare for a response to another possible outbreak of Severe*

Acute Respiratory Syndrome (SARS) in the United States and abroad. In late February 2003, CDC began supporting the World Health Organization (WHO) in the investigation of a multi-country outbreak of atypical pneumonia of unknown etiology. The illness was subsequently named SARS. By March 2003, cases of SARS were reported in the U.S. among travelers with a travel history to one or more of the three provinces in Asia where the SARS outbreak was first reported.

In order to prepare for another potential outbreak of SARS in the U.S. in the upcoming respiratory season, several collections of information may be required. Currently, CDC is collecting this information under a six month emergency clearance. To preserve continuity in the surveillance information collected by public health investigators, CDC is requesting a 3 year extension on the current surveillance forms. The information collected includes contact information for travelers on a flight with a person or persons suspected of having SARS, health care work exposures, and case report forms. There is no cost to the respondent.

Form	Respondent	No. of respondents	No. of responses/ respondent	Avg. burden per response (in hours)	Total burden (in hours)
International SARS Case reports .....	Caseworker .....	500	1	30/60	250
SARS contact information .....	Airline passengers .....	3,000	1	5/60	250
SARS retrospective exposure form .....	Quarantine inspector .....	1,000	1	5/60	83
SARS Screening form .....	Health care workers .....	330	1	10/60	55
Health Care Worker exposure form .....	Health care workers .....	500	1	20/60	167
Unprotected HCW form .....	Health care workers .....	500	1	20/60	167
SARS Case Report Intake form .....	Health care workers/epi- demologists.	750	1	1	45,000
Total .....					45,972

Dated: August 28, 2003.

**Nancy E. Cheal,**

*Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.*

[FR Doc. 03–22618 Filed 9–4–03; 8:45 am]

**BILLING CODE 4163–18–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

[Docket No. 2003N–0361]

**Anti-Counterfeit Drug Initiative; Public Meeting**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a public meeting on the agency’s effort to combat counterfeit drugs. The purpose

of the meeting is to enable interested individuals, organizations, and other stakeholders to present information on all aspects of the agency’s initiative against counterfeit drugs. FDA is particularly interested in hearing about information related to technology, public education, regulatory and legislative issues, and industry and health professional issues. The agency is also inviting vendors of anti-counterfeit technologies relevant to the pharmaceutical industry to display their

products for the educational benefit of FDA and attendees. The objective of the meeting is for FDA to gather information to assist FDA's counterfeit drug task force in finalizing its report, which will include recommendations on steps that FDA, other government agencies, and the private sector can take to minimize the risks to the public from counterfeit drugs entering the supply chain.

**DATES AND TIME:** The public meeting and vendor display will be held on October 15, 2003, from 9 a.m. to 5 p.m. Attendees should send notice of intent to attend the meeting by October 9, 2003. Speakers must register and submit a short summary of the presentation by September 24, 2003. Presenters must send final electronic presentations in Microsoft PowerPoint, Microsoft Word, or Adobe Portable Document Format (PDF) to FDA by close of business on October 3, 2003.

However, written and electronic comments will be accepted for consideration until November 3, 2003. Vendors must register and submit a brief summary of the product(s) they plan to display by close of business September 24, 2003.

**ADDRESSES:** The public meeting and vendor display will be held at the Four Points Sheraton Bethesda, 8400 Wisconsin Ave., Bethesda, MD 20814, 301-654-1000. The hotel may be reached by Metro using the Medical Center Station on the red line, which is 2 1/2 blocks from the hotel; or you may call the hotel for shuttle bus service. Notice of intent to attend the meeting and requests to present at the meeting should be sent to Elizabeth French, Office of Policy (HF-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-3360, FAX 301-594-6777, e-mail: [efrench@oc.fda.gov](mailto:efrench@oc.fda.gov). Requests for vendor display at the meeting should be sent to Karen Strambler, Office of Policy (HF-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-3360, FAX 301-594-6777, e-mail: [kstrambler@oc.fda.gov](mailto:kstrambler@oc.fda.gov).

**Registration and Requests for Presentation:** If you wish to attend the meeting, please notify Elizabeth French (see **ADDRESSES**). If you wish to present at the public meeting, please submit your request and a summary of your presentation to Elizabeth French at FDA (see **ADDRESSES**). Requests should be identified with the docket number listed in the heading of this document.

Requests to present should contain the following items:

- Presenter's name;
- Address;
- Telephone number;

- E-mail address;
- Affiliation, if any;
- Summary of the presentation; and
- Approximate amount of time requested for the presentation.

FDA encourages persons and groups having similar interests to consolidate their information and present it through a single representative, if possible, to enable a broad range of views to be presented. After reviewing the requests to present, the agency intends to schedule each appearance and notify each participant by e-mail or telephone of the time allotted to the person and the approximate time the person's presentation is scheduled to begin.

Presenters must send final electronic presentations in Microsoft PowerPoint, Microsoft Word, or PDF to FDA by close of business on October 3, 2003.

**Registration and Request for Vendors Displays:**

In addition, there will be an opportunity for vendors of authentication and track and trace anti-counterfeiting technologies to display their products in a room adjacent to the public meeting. The purpose of these displays is to educate FDA and other attendees of the types of anti-counterfeit technologies that are currently available. FDA is particularly interested in vendors displaying products that have the following features:

- Product is currently in commercial use or production;
- Product (or closely similar product) is currently being used in the pharmaceutical distribution system or that has clear applicability to authenticating or tracking pharmaceuticals (e.g., are easily incorporated into the manufacturing process, packaging, and/or labeling of drugs and biologics);
- Track/trace products that have the ability to locate the product throughout the distribution chain from the time of manufacture to the time sale to a consumer;
- Track/trace products that have the ability to be read and used by each entity (or individual) having physical contact with the pharmaceutical;
- Covert authentication technologies that are identifiable by one or more points in the distribution chain (i.e. by wholesalers, repackers, retailers, and health care entities); and
- Covert forensic technologies that are identifiable by a sophisticated analytical laboratory and the manufacturer.

FDA is not interested in having technologies displayed that are not in production or current commercial use, and that are not applicable to pharmaceuticals. For example, technologies that are not easily

incorporated into the manufacture, packaging, and/or labeling of pharmaceuticals may not be appropriate for display. Vendors should take these factors into account prior to determining which products to display.

Because of limited space availability, all vendor requests may not be accommodated. If you wish to have a display at the public meeting, please submit your request and the following information to Karen Strambler (see **ADDRESSES**). Requests should be identified with the docket number listed in the heading of this document. Space available for display will be determined based on the number of registrants and total space available; however, the agency anticipates that of those that can be accommodated, vendors will each be provided with, at a minimum, a 4- by 3-foot table for table top display.

Requests to display should contain the following items:

- Presenter's name,
- Address,
- Telephone number,
- Affiliation,
- Product(s) for display, and
- Brief summary of how the anti-counterfeit technology meets the criteria listed in the previous list items.

After reviewing the requests to display, FDA intends to notify each vendor by e-mail or telephone whether there is space available for display.

**For Information Regarding This Notice:** Poppy Kendall, Office of Policy (HF-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-9278, FAX 301-594-6777, e-mail: [poppy.kendall@fda.gov](mailto:poppy.kendall@fda.gov).

If you need special accommodations due to disability, please inform Elizabeth French (see **ADDRESSES**).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Counterfeit drugs pose potentially serious public health and safety concerns. They may contain only inactive ingredients, incorrect ingredients, improper dosages, dangerous subpotent or superpotent ingredients, or even adventitious agents or contaminants such as harmful bacteria. In the United States, drug counterfeiting is a relatively rare event. Although FDA believes domestic counterfeiting is not widespread, the agency has recently seen an increase in counterfeiting activities as well as a more sophisticated ability to introduce finished dosage counterfeits into the otherwise legitimate drug distribution channels. During the late 1990's, FDA counterfeit drug investigations averaged about five per year. Since 2000,

however, FDA counterfeit drug investigations have increased to an average of over 20 per year.

On July 16, 2003, FDA announced an initiative to more aggressively protect American consumers from the risks associated with counterfeit drugs and reduce the possibility of potentially unsafe counterfeit drugs reaching consumers. As part of this effort, FDA established an internal task force that will develop recommendations for steps that FDA, other government agencies, and the private sector can take to minimize the risks to the public from counterfeit drugs getting into the supply chain. Some of the areas that FDA's task force is exploring are included in the following topics:

- *Technology*: Assess the extent to which currently available and potential technologies can help assure the authenticity of drugs;

- *Regulatory/Legislative Issues*: Evaluate potential State and Federal regulatory and legislative changes that could be made to strengthen the nation's protections against counterfeiting;

- *Public Education*: Evaluate ways to educate consumers and health providers on steps they can take to minimize risks associated with counterfeit drugs as well as what to look for and do if they suspect they have received a counterfeit drug;

- *Industry and Health Professional Issues*: Identify actions industry and health professionals can take to prevent, detect, and respond to counterfeit drugs.

The task force anticipates the following deliverables:

- Interim task force report to be released in September 2003. We intend to include preliminary findings on which all interested parties may comment;

- Final task force report to be released in January 2004. We intend to provide recommendations for public and private sector actions to address the problem of counterfeit drugs.

## II. Scope of Discussion

FDA is planning this public meeting in order to hear public comments on ways to combat counterfeit drugs. The objective of the meeting is for FDA to gather information to assist FDA's counterfeit drug task force in finalizing its report, which will include recommendations on steps that FDA, other government agencies, and the private sector can take to minimize the risks to the public from counterfeit drugs entering the supply chain. We anticipate that discussions at this meeting will include presentations from members of the public.

FDA plans to include with the task force interim report a series of questions specifically addressing the preliminary findings. The questions will be posted on FDA's Web site at [www.fda.gov](http://www.fda.gov). We request that presenters address these questions at the public meeting as well as the topics of interest listed in the following paragraphs. Specific topics of interest include, but are not limited to the following topics:

### A. Technology

1. What anti-counterfeit technologies currently are available for use as anti-counterfeit measures for pharmaceuticals (e.g., track/trace, authentication)? What are the costs associated with these technologies?

2. What is the current status of, and barriers to, adopting an industry standard for use of anti-counterfeiting technology?

3. What role should FDA play in facilitating the use of anti-counterfeit technologies and in the creation of an industry standard for use of anti-counterfeiting measures?

4. Should anti-counterfeiting measures be used for all drugs and biologics or just for drugs at high risk for counterfeiting? Is there a way to identify drugs at high risk for counterfeiting?

### B. Regulatory and Legislative Issues

1. In 2001, FDA submitted a report to Congress (<http://www.fda.gov/oc/pdma/report2001/default.htm>) on the status of the implementation and enforcement of the Prescription Drug Marketing Act (PDMA). As explained in this report, we raised concerns regarding implementation of the wholesale distribution provisions at 21 CFR 203.50, and these provisions have been stayed until April 2004. Have circumstances changed since the issuance of the report to Congress that could affect FDA's decision to continue the stay or implement these provisions?

2. How could PDMA be strengthened or augmented to reduce the risk of counterfeit drugs and biologics from reaching consumers?

3. If PDMA were amended by Congress to require wholesale distributors to prepare and pass on a pedigree to all customers ("universal pedigree"), including to retail pharmacies, would the risk of distribution of counterfeit, expired, or otherwise unsuitable drugs to consumers be decreased?

4. How could state pharmacy practice acts be augmented or strengthened to minimize the introduction of counterfeit drugs into the drug distribution chain? Please give specific suggestions.

### C. Public Education

1. What are the information needs of consumers, trade groups, the media, state governments, manufacturers, wholesalers, pharmacists, and other health care professionals to help identify and report suspected counterfeit drugs?

2. What is the most effective and efficient way for FDA to notify the public and health professionals that a counterfeit product has been identified? What are the emergency messages that FDA should deliver to its various audiences when a report of a suspected counterfeit drug is received by the agency?

3. What types of communication tools are already in existence and/or should be developed to assist FDA in delivering its messages about counterfeiting?

4. How can FDA, other governmental agencies, and private stakeholders work together to create and disseminate education messages to various audiences (e.g., consumers, wholesalers, pharmacies) that are consistent while delivering the information that each stakeholder needs?

### D. Industry and Health Professional Issues

1. What is the role of manufacturers, wholesalers, retailers, repackagers, and pharmacists in the following areas: (1) Identifying counterfeits, (2) preventing the introduction of counterfeits into the distribution chain, and (3) educating consumers. Should these stakeholders create in-house committees to develop and implement security and anti-counterfeit measures? Should stakeholders develop compliance programs?

2. Should a counterfeit drug alert network be developed? If so, should it be adapted from existing systems or should a new system be created? What would be the associated costs of adapting or creating a network?

We invite public comment on the overall FDA anti-counterfeit drug initiative, with a focus on the questions listed previously in this document.

## III. Comments

Interested persons may submit to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, written or electronic comments by November 3, 2003. Submit electronic comments to <http://www.fda.gov/dockets/ecomments>. Groups should submit two copies. Individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the

heading of this document. You should annotate and organize your comments to identify the specific questions to which they refer. To ensure timely handling, the outer envelope should be clearly marked with the docket number listed in the heading of this document along with the statement "Counterfeit Drug Meeting." Comments to the docket can be reviewed in the Division of Dockets Management Monday through Friday between 9 a.m. and 4 p.m.

#### IV. Transcripts

You may request a copy of the transcript of the meeting in writing from the Freedom of Information Office (HFI-35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A-16, Rockville, MD 20857, approximately 14 working days after the meeting at a cost of 10 cents per page or on compact disc at a cost of \$14.25 each. You can also examine the transcript Monday through Friday between 9 a.m. and 4 p.m. in the Division of Dockets Management.

#### V. Electronic Access

Persons with access to the Internet may obtain additional information on the public meeting at <http://www.fda.gov/oc/initiatives/counterfeit/>.

Dated: September 3, 2003.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 03-22789 Filed 9-4-03; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### Food Biotechnology Subcommittee of the Food 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:* Food Biotechnology Subcommittee of the Food 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 24, 2003, from 8:30 a.m. to 4:30 p.m.

*Location:* JW Marriott Hotel, 1331 Pennsylvania Ave., Washington, DC, 202-314-4714.

*Contact Person:* Michael Watson, Center for Food Safety and Applied Nutrition (HFS-255), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 202-418-3122, or FDA Advisory Committee Information Line, 1-800-741-8138 301-443-0572 in the Washington, DC area), code 10564. Please call the Information Line for up-to-date information on this meeting.

*Agenda:* The purpose of the meeting is to discuss the science-based approaches to the molecular characterization of bioengineered foods as part of FDA's safety assessment.

*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 10, 2003. Oral presentations from the public will be scheduled between approximately 1 p.m. to 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 10, 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 Michael Watson 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: August 28, 2003.

**Peter J. Pitts,**

*Associate Commissioner for External Affairs.*

[FR Doc. 03-22581 Filed 9-4-03; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### General and Plastic Surgery 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). The meeting will be open to the public.

*Name of Committee:* General and Plastic Surgery 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 October 14, 2003, from 8 a.m. to 10 p.m., and October 15, 2003, from 7:30 a.m. to 5 p.m.

*Location:* Gaithersburg Marriott, Grand Ballroom, 9751 Washingtonian Blvd., Gaithersburg, MD.

*Contact Person:* David Krause, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301-594-3090, ext. 141, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 12519. Please call the Information Line or access the Internet at <http://www.fda.gov/cdrh/panelmtg.html> for up-to-date information on this meeting.

*Agenda:* On October 14 and 15, 2003, the committee will discuss, make recommendations, and vote on a premarket approval application for Silicone Gel-Filled Breast Prostheses. Background information, including the agenda and questions for the committee, will be available to the public on October 10, 2003, on the Internet at <http://www.fda.gov/cdrh/panelmtg.html>.

*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 30, 2003. Oral presentations from the public will be scheduled on October 14, 2003, between approximately 8 a.m. and 12 noon, and on October 15, 2003, between approximately 7:30 a.m. and 11:30 a.m. Time allotted for each presentation is limited. Those desiring to make formal

oral presentations should notify the contact person before September 30, 2003, and submit a brief statement of the general nature of the comments they wish to present, and the names and addresses of proposed participants.

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 AnnMarie Williams, Conference Management Staff, at 301-594-1283, ext. 113, 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: August 29, 2003.

**Peter J. Pitts,**

*Associate Commissioner for External Relations.*

[FR Doc. 03-22580 Filed 9-4-03; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### Manufacturing Subcommittee of the Advisory Committee for Pharmaceutical Science; 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 Manufacturing Subcommittee of the Advisory Committee for Pharmaceutical Science. This meeting was announced in the **Federal Register** of August 14, 2003 (68 FR 48614). The amendment is being made to reflect a change in the date and time, agenda, and procedure portions of the meeting. Due to administrative complications, all topics previously announced will be discussed on September 17, 2003. There are no other changes.

**FOR FURTHER INFORMATION CONTACT:**

Hilda Scharen, 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 12539. Please call the Information Line for up-to-date information on this meeting.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of August 14, 2003, FDA announced that a meeting of the Manufacturing Subcommittee of the Advisory Committee for Pharmaceutical Science would be held on September 17 and 18, 2003. On page 48614, in the second column, the agenda portion of the meeting is amended to read as follows:

*Date and Time:* The meeting will be held on September 17, 2003, from 8:30 a.m. to 5 p.m.

*Agenda:* On September 17, 2003, the subcommittee will discuss the following topics: (1) Quality by design and how it is distinct from approaches that attempt to test in quality; and (2) define principles by which risk management is integrated into decisionmaking.

*Procedures:* Oral presentations from the public will be scheduled between approximately 11:30 a.m. and 12:30 p.m.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: August 29, 2003.

**Peter J. Pitts,**

*Associate Commissioner for External Relations.*

[FR Doc. 03-22628 Filed 9-4-03; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 2003D-0385]

#### Draft "Guidance for Industry: Comparability Protocols—Protein Drug Products and Biological Products—Chemistry, Manufacturing, and Controls Information;" Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled "Guidance for Industry: Comparability Protocols—Protein Drug Products and Biological Products—Chemistry, Manufacturing, and Controls Information" dated September 2003. The draft guidance document provides recommendations to applicants on preparing and using comparability protocols for changes in chemistry, manufacturing, and controls of products

in approved marketing applications. The guidance applies to comparability protocols that applicants would submit in biologics license applications (BLAs) or supplements to these applications for therapeutic recombinant deoxyribonucleic acid (DNA) derived protein products, naturally derived protein products, plasma derivatives, vaccines, allergenics and therapeutic DNA plasmids. The guidance also applies to new drug applications (NDAs), abbreviated new drug applications (ANDAs), new animal drug applications (NADAs), abbreviated new animal drug applications (ANADAs), or supplements to these applications for protein drug products, and certain peptides that are not sufficiently characterizable (i.e., complex mixture of small peptides).

**DATES:** Submit written or electronic comments on the draft guidance by December 4, 2003, to ensure their adequate consideration in preparation of the final guidance. General comments on agency guidance documents are welcome at any time.

**ADDRESSES:** Submit written requests for single copies of the draft guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM-40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448; or to the Office of Training and Communications, Division of Communications Management, Division of Drug Information (HFD-240), Center for Drug Evaluation and Research, 5600 Fishers Lane, Rockville, MD 20857; or to the Communications Staff (HFV-12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist the office in processing your requests. The draft guidance may also be obtained by mail by calling the CBER Voice Information System at 1-800-835-4709 or 301-827-1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit written comments on the draft guidance 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>.

**FOR FURTHER INFORMATION CONTACT:** Nathaniel L. Geary, Center for Biologics Evaluation and Research (HFM-17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-827-6210; or Stephen K.

Moore, Center for Drug Evaluation and Research (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-6430; or Dennis Bensley, Center for Veterinary Medicine (HFV-143), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-6956.

#### **SUPPLEMENTARY INFORMATION:**

### **I. Background**

FDA is announcing the availability of a draft document entitled "Guidance for Industry: Comparability Protocols—Protein Drug Products and Biological Products—Chemistry, Manufacturing, and Controls Information" dated September 2003. The draft document applies to comparability protocols that would be submitted in BLAs, or supplements to these applications, for therapeutic recombinant DNA derived protein products, naturally derived protein products, plasma derivatives, vaccines and allergenics, therapeutic DNA plasmids and NDAs, ANDAs and investigational new drugs (INDs) for protein drug products, and not sufficiently characterizable peptide products (e.g., complex mixture of small peptides).

The draft guidance does not pertain to comparability protocols for human blood and blood components intended for transfusion and for further manufacture, somatic cell therapy, and gene therapy vectors (except therapeutic DNA plasmids). It also does not pertain to vaccines for veterinary use because these are regulated by the U.S. Department of Agriculture.

The draft guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The collection of information in the guidance was approved under OMB control numbers 0910-0001, 0910-0032, and 0910-0338.

The draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

### **II. Comments**

The draft guidance is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Division of Dockets

Management (see **ADDRESSES**) written or electronic comments regarding the draft guidance. Submit written or electronic comments to ensure adequate consideration in preparation of the final 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 the brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

### **III. Electronic Access**

Persons with access to the Internet may obtain the draft guidance at <http://www.fda.gov/cber/guidelines.htm>, <http://www.fda.gov/ohrms/dockets/default.htm>, <http://www.fda.gov/cder/guidance/index.htm>, or <http://www.fda.gov/cvm/guidance/published.htm>.

Dated: August 27, 2003.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 03-22577 Filed 9-3-03; 10:00 am]

**BILLING CODE 4160-01-S**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Food and Drug Administration**

[Docket No. 2003D-0386]

#### **Draft Guidance for Industry on Formal Dispute Resolution: Scientific and Technical Issues Related to Pharmaceutical Current Good Manufacturing Practice; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Formal Dispute Resolution: Scientific and Technical Issues Related to Pharmaceutical CGMP." In the draft guidance, the agency describes a formal, two-tiered dispute resolution process intended to resolve disputes of scientific and technical issues relating to current good manufacturing practice (CGMP) that arise during FDA inspections of pharmaceutical manufacturers.

**DATES:** Submit written or electronic comments on the draft guidance by March 3, 2004. General comments on agency guidance documents are

welcome at any time. Submit written or electronic comments on the collection of information by November 4, 2003.

**ADDRESSES:** Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD-240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; the Office of Communication, Training and Manufacturers Assistance (HFM-40), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448; or Communications Staff (HFV-12), Center for Veterinary Medicine, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the draft guidance and on the collection of information to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments on the draft guidance and the collection of information to <http://www.fda.gov/dockets/ecomments>.

#### **FOR FURTHER INFORMATION CONTACT:**

Mary Jane Mathews, Center for Drug Evaluation and Research (HFD-3), Food and Drug Administration, 1451 Rockville Pike, Rockville, MD 20852, 301-594-2847.

#### **SUPPLEMENTARY INFORMATION:**

### **I. Background**

FDA is announcing the availability of a draft guidance for industry entitled "Formal Dispute Resolution: Scientific and Technical Issues Related to Pharmaceutical CGMP." The guidance was drafted as part of the FDA initiative "Pharmaceutical CGMPs for the 21st Century: A Risk-Based Approach," which was announced in August 2002. The initiative focuses on FDA's current CGMP program and covers the manufacture of veterinary and human drugs, including human biological drug products.

The agency formed the Dispute Resolution Working Group comprising representatives from the Office of Regulatory Affairs (ORA), the Center for Drug Evaluation and Research (CDER), the Center for Biologics Evaluation and Research (CBER), and the Center for Veterinary Medicine (CVM). The working group met weekly on issues related to the dispute resolution process and met with stakeholders in December 2002 to seek their input.

The draft guidance was initiated in response to industry's request for a formal dispute resolution process to resolve differences related to scientific and technical issues that arise between investigators and pharmaceutical manufacturers during FDA inspections of foreign and domestic manufacturers. In addition to encouraging manufacturers to use currently available dispute resolution processes, the draft guidance describes a formal two-tiered dispute resolution process that provides a formal mechanism for requesting review and decision on issues that arise during inspections.

- Tier-one of the dispute resolution process provides a mechanism to raise scientific or technical issues to the ORA and center levels.

- Tier-two of the dispute resolution process provides a mechanism to raise scientific or technical issues to the agency's Dispute Resolution Panel for Scientific and Technical Issues Related to Pharmaceutical CGMP (DR Panel).

The draft guidance also covers the following topics:

- The suitability of certain issues for the formal dispute resolution process, including examples of some issues with a discussion of their appropriateness for the dispute resolution process.

- Instructions on how to submit requests for formal dispute resolution and a list of the supporting information that should accompany these requests.

- Public availability of decisions reached during the dispute resolution process to promote consistent application and interpretation of drug quality-related regulations.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on "Formal Dispute Resolution: Scientific and Technical Issues Related to Pharmaceutical CGMP." It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

## II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the draft guidance. Two copies of mailed comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for

public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

## III. The Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act (44 U.S.C. 3501-3520) (the PRA), 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 forth in this document.

With respect to the following collection of information, FDA invites comments on the following topics: (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 on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

*Title:* Draft Guidance for Industry on Formal Dispute Resolution: Scientific and Technical Issues Related to Pharmaceutical CGMP.

*Description:* The draft guidance is intended to provide information to manufacturers of veterinary and human drugs, including human biological drug products, on how to resolve disputes of scientific and technical issues relating to CGMP. Disputes related to scientific and technical issues may arise during FDA inspections of pharmaceutical manufacturers to determine compliance with CGMP requirements, or during FDA's assessment of corrective actions undertaken as a result of such inspections. The draft guidance provides procedures that will encourage open and prompt discussion of disputes and lead to their resolution. The draft

guidance describes procedures for raising such disputes to the ORA and center levels and for requesting review by the DR Panel.

When a scientific or technical issue arises during an FDA inspection, the manufacturer should initially attempt to reach agreement on the issue informally with the investigator. Certain scientific or technical issues may be too complex or time-consuming to resolve during the inspection. If resolution of a scientific or technical issue is not accomplished through informal mechanisms prior to the issuance of the Form FDA 483, the manufacturer can formally request dispute resolution and can use the formal two-tiered dispute resolution process described in the draft guidance.

Tier-one of the formal dispute resolution process involves scientific or technical issues raised by a manufacturer to the ORA and center levels. If a manufacturer disagrees with the tier-one decision, tier-two of the formal dispute resolution process would then be available for appealing that decision to the DR Panel.

If a manufacturer disagrees with the scientific or technical basis for an observation listed by an investigator on a Form FDA 483, the manufacturer can file a written request for formal dispute resolution with the appropriate ORA unit as described in the draft guidance. The request for formal dispute resolution should be made within 10 days of the completion of an inspection, and should include all supporting documentation and arguments for review, as described. If a manufacturer disagrees with the tier-one decision in the formal dispute resolution process, the manufacturer can file a written request for formal dispute resolution by the DR Panel. The manufacturer should provide the written request for formal dispute resolution and all supporting documentation and arguments, as described in the following paragraphs, to the DR Panel within 60 days of receipt of the tier-one decision.

All requests for formal dispute resolution should be in writing and include adequate information to explain the nature of the dispute and to allow FDA to act quickly and efficiently. Each request should be sent to the appropriate address listed in the draft guidance and include the following:

- Cover sheet that clearly identifies the submission as either a request for tier-one dispute resolution or a request for tier-two dispute resolution;
- Name and address of manufacturer inspected (as listed on the Form FDA 483);
- Date of inspection (as listed on the Form FDA 483);

- Date the Form FDA 483 issued (from the Form FDA 483);
- Firm establishment inventory (FEI) number, if available (from the Form FDA 483);
- Names and titles of FDA employees who conducted inspection (from the Form FDA 483);
- Office responsible for the inspection, e.g., district office, as listed on the Form FDA 483;
- Application number if the inspection was a preapproval inspection;
- Comprehensive statement of each issue to be resolved:
  - Identify the observation in dispute.
  - Clearly present the manufacturer's scientific position or rationale concerning the issue under dispute with any supporting data.
  - State the steps that have been taken to resolve the dispute, including any informal dispute resolution that may have occurred before the issuance of the Form FDA 483.
  - Identify possible solutions.
  - State expected outcome.

- Name, title, telephone and fax number, and e-mail address (as available) of manufacturer contact.

*Description of Respondents:* Pharmaceutical manufacturers of veterinary and human drug products and human biological drug products.

*Burden Estimate:* FDA has reviewed the total number of informal disputes that currently arise between manufacturers and investigators (and FDA district offices) when a manufacturer disagrees with the scientific or technical basis for an observation listed on a Form FDA 483. FDA estimates that approximately 12 such disputes occur annually. FDA believes that the number of requests for formal dispute resolution under the draft guidance would be higher because manufacturers have expressed reluctance to dispute with the agency scientific or technical issues raised in an investigation in the absence of a formal mechanism to resolve the dispute. In addition, manufacturers have requested the formal mechanisms in the draft guidance to facilitate the review of such disagreements. Therefore, FDA

estimates that approximately 25 manufacturers will submit approximately 25 requests annually for a tier-one dispute resolution. FDA also estimates that approximately five manufacturers will appeal approximately five of these requests to the DR Panel (request for tier-two dispute resolution).

Based on the time it currently takes manufacturers to prepare responses to FDA concerning issues raised in a Form FDA 483, FDA estimates that it will take manufacturers approximately 30 hours to prepare and submit each request for a tier-one dispute resolution and approximately 8 hours to prepare and submit each request for a tier-two dispute resolution.

Based on the methodology and assumptions in the previous paragraphs, table 1 of this document provides an estimate of the annual reporting burden for requests for a tier-one dispute resolution and requests for a tier-two dispute resolution under the draft guidance. FDA requests comments on this analysis of information collection burdens.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN<sup>1</sup>

	No. of Respondents	Number of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
Requests for Tier-One Dispute Resolution	25	1	25	30	750
Requests for Tier-Two Dispute Resolution	5	1	5	8	40
Total					790

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this collection of information.

#### IV. Electronic Access

Persons with access to the Internet may obtain the draft guidance document at either <http://www.fda.gov/cder/guidance/index.htm> or <http://www.fda.gov/ohrms/dockets/default.htm> or <http://www.fda.gov/cber/guidelines.htm>

Dated: August 27, 2003.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 03-22575 Filed 9-3-03; 10:00 am]

BILLING CODE 4160-01-S

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Food and Drug Administration

[Docket Nos. 2003D-0060]

##### Guidance for Industry on "Part 11, Electronic Records; Electronic Signatures—Scope and Application;" Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "Part 11, Electronic Records; Electronic Signatures—Scope and Application." The guidance explains FDA's current thinking regarding the requirements and application of part 11 (21 CFR part 11). FDA has begun to re-examine part 11 as it applies to all FDA

regulated products. This guidance explains that we will narrowly interpret the scope of part 11. While the re-examination of part 11 is under way, we intend to exercise enforcement discretion with respect to certain part 11 requirements. With respect to systems that were operational before August 20, 1997, the effective date of the final rule establishing part 11, we intend to exercise enforcement discretion with respect to all part 11 requirements under certain circumstances.

**DATES:** Submit written or electronic comments on agency guidances at any time.

**ADDRESSES:** Submit written requests for single copies of this guidance to the Division of Drug Information (HFD-240), Center for Drug Evaluation and

Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance 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 guidance document.

**FOR FURTHER INFORMATION CONTACT:**

Joseph C. Famulare, Center for Drug Evaluation and Research (HFD-320), Food and Drug Administration, 11919 Rockville Pike, Rockville, MD 20852, 301-827-8940, or [part11@cder.fda.gov](mailto:part11@cder.fda.gov); or David Doleski, Center for Biologics Evaluation and Research (HFM-676), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-827-3031, [doleski@cber.fda.gov](mailto:doleski@cber.fda.gov); or John Murray, Center for Devices and Radiological Health (HFZ-340), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301-594-4659, [jfm@cdrh.fda.gov](mailto:jfm@cdrh.fda.gov); or Vernon D. Toelle, Center for Veterinary Medicine (HFV-234), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-0312, [vtoelle@cvm.fda.gov](mailto:vtoelle@cvm.fda.gov); or JoAnn Ziyad, Center for Food Safety and Applied Nutrition (HFS-206), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740-3835, 202-418-3116, [jziyad@cfsan.fda.gov](mailto:jziyad@cfsan.fda.gov); or Scott MacIntire, Office of Regulatory Affairs (HFC-240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857-1706, 301-827-0386, [smacinti@ora.fda.gov](mailto:smacinti@ora.fda.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

FDA is announcing the availability of a guidance for industry entitled "Part 11, Electronic Records; Electronic Signatures—Scope and Application." The guidance explains FDA's current thinking regarding the requirements and application of part 11.

In March 1997, FDA issued final part 11 regulations that provided criteria for acceptance by FDA, under certain circumstances, of electronic records, electronic signatures, and handwritten signatures executed to electronic records as equivalent to paper records, and handwritten signatures executed on paper (62 FR 13430, March 20, 1997). These regulations, which apply to all FDA program areas, were intended to permit the widest possible use of

electronic technology, consistent with FDA's responsibility to protect the public health.

After part 11 became effective in August 1997, significant discussions ensued among industry, contractors, and the agency concerning the scope, interpretation, and implementation of the regulations. Concerns have been raised that some interpretations of the part 11 requirements would have the following effects: (1) Unnecessarily restrict the use of electronic technology in a manner that is inconsistent with FDA's stated intent in issuing the rule, (2) significantly increase the costs of compliance to an extent that was not contemplated at the time the rule was drafted, and (3) discourage innovation and technological advances without providing a significant public health benefit. These concerns have been raised particularly in the areas of part 11 requirements for validation, audit trails, record retention, record copying, and legacy systems.

As an outgrowth of its current good manufacturing practice (CGMP) initiative for human and animal drugs and biologics, FDA has begun to re-examine part 11 as it applies to all FDA regulated products. We may revise provisions of part 11 as a result of that examination. This guidance explains that we will narrowly interpret the scope of part 11. While the re-examination of part 11 is under way, we intend to exercise enforcement discretion with respect to certain part 11 requirements. However, with respect to legacy systems we intend to exercise enforcement discretion with respect to all part 11 requirements under certain circumstances. As announced on February 25, 2003, in the **Federal Register** document announcing the availability of the draft version of this guidance (68 FR 8775), we have withdrawn Compliance Policy Guide 7153.17 and previously published part 11 draft guidance documents on validation, glossary of terms, time stamps, and maintenance of electronic records. Also, in the **Federal Register** of February 4, 2003 (68 FR 5645), we announced the withdrawal of the previously published part 11 draft guidance on electronic copies of electronic records.

FDA received a number of comments when it issued the February 2003 draft version of this guidance. We have considered the comments on the draft carefully and have made some changes to address those comments. Among other things, we have revised the guidance by making the following changes:

1. Emphasize that part 11 remains in effect and that enforcement discretion applies only to certain requirements or circumstances as identified in the guidance;
2. Clarify the term 'enforcement discretion';
3. Explain that time stamps should be clearly referenced;
4. Remove the National Institute of Standards and Technology risk management guide as a reference and add the ISO 14971 risk management guide as a reference;
5. State that the FDA currently has no plans to re-issue the withdrawn part 11 draft guidance documents; and
6. Clarify the meaning of 'part 11 legacy system.'

This guidance provides recommendations to persons who, in fulfillment of a requirement in a statute or another part of FDA's regulations to maintain records or submit information to FDA, have chosen to maintain the records or submit designated information electronically and, as a result, have become subject to part 11.

This guidance announces that we intend to exercise enforcement discretion with respect to the validation, audit trail, record retention, and record copying requirements of part 11. We also intend to exercise enforcement discretion and do not intend to recommend or take enforcement action to enforce any part 11 requirements with regard to systems that were operational before August 20, 1997, the effective date of part 11 (commonly known as existing or legacy systems) while we are re-examining part 11. However, records must still be maintained or submitted in accordance with the underlying predicate rules.

It is important to note that FDA's exercise of enforcement discretion as described in this guidance is limited to specified part 11 requirements (setting aside legacy systems, as to which the extent of enforcement discretion, under certain circumstances, will be more broad). We intend to enforce all other provisions of part 11 including, but not limited to, certain controls for closed systems in § 11.10, the corresponding controls for open systems (§ 11.30), and requirements related to electronic signatures (e.g., §§ 11.50, 11.70, 11.100, 11.200, and 11.300). We expect continued compliance with these provisions, and we will continue to enforce them. Where the interpretation of part 11 in this guidance differs from the interpretation in the preamble to part 11, the interpretation in this guidance will apply.

This level 1 guidance is being issued consistent with FDA's good guidance

practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on "Part 11, Electronic Records; Electronic Signatures—Scope and Application." It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

## II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the guidance at any time. Two paper copies of mailed comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

## III. Electronic Access

Persons with access to the Internet may obtain the document at either <http://www.fda.gov/cder/guidance/index.htm> or <http://www.fda.gov/ohrms/dockets/default.htm>.

Dated: August 27, 2003.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 03-22574 Filed 9-03-03; 10:00 am]

**BILLING CODE 4160-01-S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 2003D-0380]

#### **Draft Guidance for Industry: Process Analytical Technology — A Framework for Innovative Pharmaceutical Manufacturing and Quality Assurance; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled "Guidance for Industry: PAT — A Framework for Innovative Pharmaceutical Manufacturing and Quality Assurance." The draft guidance explains a science-based, risk-based framework, "Process Analytical Technology, or PAT," for developing and implementing innovative manufacturing technology. The

guidance is intended to encourage innovative pharmaceutical manufacturing and quality assurance. Working with existing regulations, this guidance also describes a regulatory approach that will enable the agency and the pharmaceutical industry to address technical and regulatory issues and questions anticipated during introduction of new manufacturing and quality assurance technologies.

**DATES:** Submit written or electronic comments on this draft guidance on paper or electronically, by November 4, 2003. General comments on agency guidance documents are welcome at any time.

**ADDRESSES:** Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD-240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or to the Office of Communication, Training, and Manufacturers Assistance (HFM-40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance 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 document.

#### **FOR FURTHER INFORMATION CONTACT:**

Rajendra Uppoor, Center For Drug Evaluation and Research (HFD-003), 5600 Fishers Lane, Rockville, MD 20857, 301-594-5615, or Dennis Bensley, Center for Veterinary Medicine (HFV-143), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-6956, or Robert Coleman, Office of Regulatory Affairs, Food and Drug Administration, 60 8th Street North East, Atlanta, GA 30309, 404-253-1200, ext. 1295.

**SUPPLEMENTARY INFORMATION:** FDA is announcing the availability of a draft guidance entitled "Guidance for Industry: PAT — A Framework for Innovative Pharmaceutical Manufacturing and Quality Assurance." The draft guidance explains a science-based, risk-based framework, "Process Analytical Technology, or PAT," for developing and implementing innovative manufacturing technology.

The guidance is intended to encourage innovative pharmaceutical manufacturing and quality assurance.

## I. Background

Conventional pharmaceutical manufacturing is generally accomplished using batch processing with testing conducted on collected samples to ensure quality. This conventional approach has been successful in providing quality pharmaceuticals to the public. However, significant opportunities now exist for improving the efficiency of pharmaceutical manufacturing and quality assurance through the innovative application of modern process development and control technologies, including modern PAT. Unfortunately, the pharmaceutical industry generally has been hesitant to introduce new technologies and innovative systems into the manufacturing sector for a number of reasons. For example, one reason often cited is regulatory uncertainty, which may result from the perception that our existing regulatory system is unfavorable to the introduction of new technologies.

In August 2002, recognizing the need to free industry from its hesitant perspective, FDA launched a new initiative entitled "Pharmaceutical CGMPs for the 21st Century: A Risk-Based Approach."

Pharmaceutical development and manufacturing is evolving with increased emphasis on science and engineering principles. Effective use of pharmaceutical science and engineering principles and knowledge, throughout the life cycle of a product, can improve the efficiencies of both manufacturing and regulatory processes. FDA's initiative is designed to do just that using an integrated systems approach to regulating pharmaceutical product quality. This approach is based on science and engineering principles for assessing and mitigating risks related to poor product and process quality. The desired future state of pharmaceutical manufacturing may be characterized as: (1) Product quality and performance achieved and ensured through the design of effective and efficient manufacturing processes, (2) product and process specifications based on a mechanistic understanding of how formulation and process factors affect product performance, (3) continuous real time quality assurance, (4) regulatory policies and procedures tailored to recognize the level of scientific knowledge supporting products and processes, (5) risk-based regulatory approaches that recognize the

level of scientific understanding of how formulation and manufacturing process factors affect product quality and performance and the capability of process control strategies to prevent or mitigate the risk of producing a poor quality product. This draft guidance is part of this initiative and is intended to facilitate progress to this desired state.

The draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on this topic. 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.

## II. Comments

The draft guidance is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding the draft guidance. Submit written or electronic comments to ensure adequate consideration in preparation of the final 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 the brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

## III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either <http://www.fda.gov/cder/guidance/index.htm> or <http://www.fda.gov/ohrms/dockets/default.htm>.

Dated: August 27, 2003.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 03-22578 Filed 9-3-03; 10:00 am]

**BILLING CODE 4160-01-S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 2003D-0382]

#### Draft Guidance for Industry on "Sterile Drug Products Produced by Aseptic Processing"

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice; availability.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Sterile Drug Products Produced by Aseptic Processing." FDA expects that enhanced compliance in the area of sterile drug manufacture will lead to a higher assurance of process consistency and minimize supply problems with therapeutically necessary drugs.

**DATES:** Submit written or electronic comments on the draft guidance by November 4, 2003. General comments on agency guidance documents are welcome at any time.

**ADDRESSES:** Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD-240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance 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 document.

#### FOR FURTHER INFORMATION CONTACT:

Richard Friedman, Center for Drug Evaluation and Research (HFD-320), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-9041; or

Robert Sausville, Center for Biologics Evaluations and Research (HFM-624), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-827-6201; or

Bob Coleman, Office of Regulatory Affairs (HFC-240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 404-253-4295.

#### SUPPLEMENTARY INFORMATION:

## I. Background

On September 27, 2002, FDA released a "concept paper" regarding aseptic processing ([www.fda.gov/cder/dmpq](http://www.fda.gov/cder/dmpq)) to solicit early input prior to formal issuance of a draft guidance for public comment. We are now issuing the draft guidance, which when finalized will revise the 1987 industry guidance "Sterile Drug Products Produced by Aseptic Processing." FDA's objective in revising the 1987 guidance is to issue a document that meets the following goals: (1) Provides greater clarity by including updated information regarding current good manufacturing practice (CGMP) expectations for aseptic processing facilities, and (2) reflects the latest scientific developments in this area of sterile drug quality. The 1987 guidance is being revised as part of the agency's broad effort "Pharmaceutical CGMPs for the 21st Century: A Risk-Based Approach," announced in August 2002.

In preparation for issuing this draft guidance, we presented our CGMP concept for aseptic processing at the Advisory Committee for Pharmaceutical Science on October 22, 2002. At this meeting, the concept paper was discussed in a public forum and critiqued by the advisory committee's members as well as a panel of invited aseptic processing experts. The advisory committee meeting yielded a number of issues that provided impetus for further discussion. In December 2002, a working group under the Product Quality Research Institute (PQRI) was formed to address these issues. The PQRI working group, comprising 41 aseptic processing experts from industry, academia, and FDA, recommended 8 specific text clarifications on the concept paper and 10 detailed recommendations on various issues of aseptic processing. The PQRI Steering Committee forwarded the working group's final report to FDA on March 19, 2003, and it was subsequently posted on PQRI's Web site [www.pqri.org](http://www.pqri.org). (FDA has verified the Web site address, but is not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register**.) We have taken comments from the Advisory Committee and PQRI Working Group into consideration in converting the Concept Paper into this draft guidance.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on the manufacturing of sterile drugs produced by aseptic processing. It does

not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

## II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the draft guidance. Submit a single copy of electronic comments to <http://www.fda.gov/dockets/ecomments> or two copies of any mailed comments, except that individuals may submit one copy. The draft guidance and the comments submitted to the docket may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

## III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at <http://www.fda.gov/cder/guidance/index.htm>, or <http://www.fda.gov/ohrms/dockets/default.htm>.

Dated: August 27, 2003.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 03-22576 Filed 9-3-03; 10:00 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Inspector General

#### Solicitation of Information and Recommendations for Developing Compliance Program Guidance for Recipients of NIH Research Grants

**AGENCY:** Office of Inspector General (OIG), HHS.

**ACTION:** Notice.

**SUMMARY:** This **Federal Register** notice seeks the input and recommendations of interested parties as the OIG develops compliance program guidance (CPG) for recipients of extramural research grant and cooperative agreement (grant) awards from the National Institutes of Health (NIH). The OIG is soliciting comments, recommendations and other suggestions from interested parties and organizations on the value and fundamental principles of compliance programs for colleges, universities, and other recipients of NIH grants, along with the specific elements that these grant recipients should consider when developing and implementing an effective compliance program.

**DATES:** To assure consideration, comments must be delivered to the

address provided below by no later than 5 p.m. on November 4, 2003.

**ADDRESSES:** Please mail or deliver your written comments, recommendations and suggestions to the following address: Department of Health and Human Services, Office of Inspector General, Attention: OIG-13-CPG, Room 5527, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

We do not accept comments by facsimile (FAX) transmission. In commenting, please refer to the file code OIG-13-CPG. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 5527 of the Cohen Building at 330 Independence Avenue, SW., Washington, DC 20201 on Monday through Friday of each week from 8 a.m. to 4:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Richard Stern, Office of Counsel to the Inspector General, (202) 619-0335; or Joel Schaer, Office of Counsel to the Inspector General, (202) 619-0089.

#### SUPPLEMENTARY INFORMATION:

##### 1. Past CPGs

The development of compliance program guidances is a major initiative of the OIG in its effort to assist participants in Department programs in preventing and reducing fraud and abuse and in complying with Federal program requirements. Over the past several years, the OIG has developed and issued 11 compliance program guidances. The suggestions contained in the guidances are not mandatory, nor do they represent an exclusive discussion of the advisable elements of a compliance program.

##### 2. Developing Draft CPG for NIH Research Grant Recipients

Through this **Federal Register** notice, the OIG is seeking input from interested parties as the OIG considers the development of a CPG for recipients of extramural research grant awards from NIH. Under its governing statute, the OIG's oversight responsibility extends to all programs and operations of the Department, and the OIG promotes compliance efforts by all recipients of Department funds. One community of paramount importance to the Government's public health efforts is the colleges, universities, and other recipients of public funds committed to furthering biomedical research. These organizations are largely non-profit and educational, with over 50 percent of recipients of NIH research grant awards

in the last several years being medical schools. Many of these organizations have instituted health care compliance programs in their hospitals, and an increasing number have begun developing compliance programs for sponsored research.

As with OIG's earlier CPGs, the purpose of this guidance will be to assist organizations in preventing fraud and abuse and in better complying with Federal requirements. We anticipate that the guidance for recipients of NIH research grants will contain seven elements that we consider necessary for a comprehensive compliance program. These seven elements include:

- Implementing written policies and procedures that foster an institutional commitment to stewardship and compliance;
- Designating a compliance officer and compliance committee;
- Conducting effective training and education;
- Developing effective lines of communication;
- Conducting internal monitoring and auditing;
- Enforcing standards through well-publicized disciplinary guidelines; and
- Responding promptly to detected problems, undertaking corrective action, and reporting to the appropriate Federal agency.

We are also considering an eighth element, "Defining roles and responsibilities and assigning oversight responsibility," that would include a discussion of the importance of effectively delegating oversight authority.

We would appreciate specific comments, recommendations and suggestions on aspects of these elements.

We are also interested in comments on (a) the scope of the guidance, and particularly the types of activities, such as grant administration, that should be subject to the CPG; and (b) the risk areas for recipients of NIH research grants. Based on our fraud investigations at research institutions, we have identified internal control deficiencies that may warrant attention in a CPG. OIG would also appreciate suggestions from the public on risk areas. Risk areas we have tentatively identified include: (i) The proper allocation of charges to grant projects; (ii) "time and effort" reporting, including an accurate reporting of the commitment of effort by researchers; and (iii) use of program income. We would also be interested in comments on each of these areas.

We will consider all comments, recommendations and suggestions received within the time frame

indicated above. Detailed justifications and empirical data supporting any suggestions would be appreciated. We also request that any comments, recommendations or suggestions be submitted in a format that addresses the topics outlined above in a concise manner, rather than in the form of comprehensive draft guidance that mirrors previous CPGs.

Dated: August 13, 2003.

**Dara Corrigan,**

*Acting Principal Deputy Inspector General.*

[FR Doc. 03-22626 Filed 9-4-03; 8:45 am]

BILLING CODE 4152-01-P

## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

#### Aviation Security Advisory Committee Meeting

**AGENCY:** Transportation Security Administration (TSA), DHS.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces a meeting of the Aviation Security Advisory Committee (ASAC).

**DATE:** The meeting will take place on October 1, 2003, from 9 a.m. to 1 p.m.

**ADDRESSES:** The meeting will be held at the Crowne Plaza Washington National Hotel, 1489 Jefferson Davis Highway, Arlington, VA 22202. Telephone: (703) 416-1600.

**FOR FURTHER INFORMATION CONTACT:** Joseph Corrao, Office of Transportation Security Policy, TSA Headquarters (Room 1146N), 701 S. 12th Street, Arlington, VA, 22202; telephone 571-227-2980, e-mail [joseph.corrao@dhs.gov](mailto:joseph.corrao@dhs.gov).

**SUPPLEMENTARY INFORMATION:** This meeting is announced pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.). The agenda for the meeting will include the report of the air cargo transportation security working groups, and the report of the general aviation airport security guidelines working group. This meeting, from 9 a.m. to 1 p.m., is open to the public but attendance is limited to space available.

Members of the public must make advance arrangements to present oral statements at the open ASAC meeting. Written statements may be presented to the committee by providing copies of them to the Chair prior to or at the meeting. Anyone in need of assistance or a reasonable accommodation for the meeting, should contact the person listed under the heading **FOR FURTHER**

**INFORMATION CONTACT.** In addition, sign and oral interpretation, as well as a listening device, can be made available at the meeting if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Arlington, Virginia, on September 2, 2003.

**Tom Blank,**

*Assistant Administrator for Transportation Security Policy.*

[FR Doc. 03-22666 Filed 9-4-03; 8:45 am]

BILLING CODE 4910-62-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4809-N-36]

#### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**EFFECTIVE DATE:** September 5, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mark Johnston, Department of Housing and Urban Development, Room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708-1234; TTY number for the hearing- and speech-impaired (202) 708-2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

**SUPPLEMENTARY INFORMATION:** In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: August 28, 2003.

**Mark R. Johnston,**

*Deputy Director, Office of Special Needs Assistance Programs.*

[FR Doc. 03-22460 Filed 9-4-03; 8:45 am]

BILLING CODE 4210-29-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Endangered and Threatened Wildlife and Plants; 90-Day Finding on Petition To Delist *Astragalus magdalenae* var. *peirsonii* (Peirson's milk-vetch)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, make a 90-day finding for a petition to remove *Astragalus magdalenae* var. *peirsonii* (Peirson's milk-vetch) from the Federal List of Threatened and Endangered Wildlife and Plants pursuant to the Endangered Species Act (ESA) (16 U.S.C. 1531 *et seq.*). We find that the petition presents substantial information indicating that delisting this plant may be warranted. We are initiating a status review to determine if delisting this species is warranted.

**DATES:** This finding was made on August 29, 2003. To be considered in the 12-month finding on this petition, comments and information should be submitted to us by November 4, 2003.

**ADDRESSES:** Comments, material, information, or questions concerning this petition and finding should be sent to the Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, CA 92009. The petition and supporting information are available for public inspection by appointment during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, at the above address (telephone: 760-431-9440).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531 *et seq.*) requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If we find substantial information present, we are required to promptly commence a review of the status of the species (50 CFR 424.14). "Substantial information" is defined in 50 CFR 424.14(b) as "that amount of

information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted." Petitioners need not prove that the petitioned action is warranted to support a "substantial" finding; instead, the key consideration in evaluating a petition for substantiality involves demonstration of the reliability and adequacy of the information supporting the action advocated by the petition.

On October 25, 2001, we received a petition to delist *Astragalus magdalenae* var. *peirsonii* (Peirson's milk-vetch) dated October 24, 2001, from David P. Hubbard, Ted J. Griswold, and Philip J. Giacinti, Jr. of Procopio, Cory, Hargreaves & Savitch, LLP, that was prepared for the American Sand Association (ASA), the San Diego Off-Road Coalition, and the Off-Road Business Association (ASA *et al.* 2001). Various supporting documents were submitted with the petition. The petition (ASA *et al.* 2001) asserts that the original decision to list *A. magdalenae* var. *peirsonii* was in error, and claims that: (1) The original listing decision was made without an actual plant count; (2) the original listing relied on data developed prior to the implementation of the California Desert Protection Act (CDPA); (3) the original listing decision relied on field studies that the Bureau of Land Management (BLM) has since determined were biased and scientifically unsound; (4) monitoring studies indicate that *A. magdalenae* var. *peirsonii* is abundant and thriving; and (5) plant counts confirm that the Imperial Sand Dunes support more than 100,000 *A. magdalenae* var. *peirsonii* individuals and a healthy seed bank.

On November 6, 2002 we received a 60-day notice of intent to sue from David P. Hubbard *et al.*, representing the ASA *et al.*, citing our alleged failure to make the findings on this petition as required by the ESA. A complaint was executed in the United States District Court for the Southern District of California on February 25, 2003. The plaintiffs (ASA *et al.*) challenge the Service's failure to make both the 90-day finding and 12-month finding on petition to delist the Peirson's milk-vetch. In August 2003, the Department of Justice entered into a settlement agreement with ASA *et al.*, requiring us to make a 90-day finding on this petition by August 29, 2003, and, if the 90-day finding is that the petition contains substantial information that delisting *Astragalus magdalenae* var. *peirsonii* may be warranted, a 12-month finding by May 31, 2004. As part of this settlement agreement, the petitioners

asked that we also accept and consider the information provided in Phillips and Kennedy (2002) when making our findings.

The factors for listing, delisting, or reclassifying species are described at 50 CFR 424.11. We may delist a species only if the best scientific and commercial data available substantiate that it is neither endangered nor threatened. Delisting may be warranted as a result of: (1) Extinction, (2) recovery, or (3) a determination that the original data used for classification of the species as endangered or threatened were in error.

### Biology and Distribution

*Astragalus magdalenae* var. *peirsonii* occurs essentially as one population of scattered colonies within the Algodones Dunes in the Sonoran Desert of Imperial County, California. The Algodones Dunes are often called the Imperial Sand Dunes, a designation derived from a land use area called the Imperial Sand Dunes Recreation Area established by BLM. The habitat for *A. magdalenae* var. *peirsonii* is slopes and hollows of wind-blown desert dunes, chiefly along a northwest-to-southeast orientation on the BLM-managed land. The distribution and relative abundance of the plant varies from place to place and year to year (WESTEC Services, Inc. (WESTEC) 1977; Willoughby 2000, 2001; Thomas Olsen Associates, Inc. (TOA) 2001; Phillips and Kennedy 2002). The tendency of plants to be found in patches is likely due to the localized dispersal of the fruits and seeds, as well as dune morphology and differences in local rainfall patterns.

*Astragalus magdalenae* var. *peirsonii* (Peirson's milk-vetch) is an erect to spreading, short-lived perennial in the Fabaceae (Pea family) (Barneby 1959, 1964). Plants may reach 20 to 70 centimeters (cm) (8 to 27 inches (in)) in height and develop taproots (Barneby 1964) that penetrate to the deeper, more moist sand. The stems and leaves are covered with fine, silky appressed (flat on surface) hairs. The small, narrow, widely spaced leaflets may fall off in response to drought. The purple flowers are arranged in 10-to 17-flowered axillary racemes. Individuals are reportedly able to flower in their first growing season (Barneby 1964; Romsper and Burk 1979). Romsper and Burk (1979) found inflorescences present from December through at least April. The fruits are 2 to 3.5 cm (0.8 to 1.4 in) long and inflated. Phillips and Kennedy (2002) determined that the mean number of fruits per older plant was 171.5 compared with an estimated 5 fruits per plant for plants said to be

in their first year. The seeds, among the largest known for any species of *Astragalus* (Bowers 1996), average 15 milligrams (mg) (less than 0.1 ounces (oz)) each in weight and are up to 4.7 millimeters (mm) (0.2 in) in length. There are 11 to 16 seeds per fruit (Barneby 1964). *Astragalus lentiginosus* var. *borreganus*, easily distinguished by its conspicuously broad leaflets, is the only similar taxon in the area.

Seeds are dispersed by three basic mechanisms: (1) Falling from partially open fruits that remain on the plant; (2) falling from fruits that are blown across the sand; or (3) falling to the ground within the fruit (Barneby 1964; Bowers 1986; Phillips and Kennedy 2002). Wind dispersal of fruits across the surface of the dunes is likely the primary long-distance dispersal method for this plant. The fruits and seeds tend to accumulate on the leeward side of the dunes. These seeds may be found scattered on the sand surface at times.

The number and location of standing plants may vary considerably from year to year due to a number of factors, including the amount, timing, and location of rainfall; temperature; soil conditions; and the extent and nature of the seed bank. For example, along the BLM transects, Willoughby (2001) reported that 942 plants were found in 1999 and only 86 plants in 2000, both low rainfall years compared to the wetter year 1998, when 5,064 plants were found. In 2001, 71,926 plants were reported (TOA 2001), but this single census does not provide any information on population trend. Plant mortality over the short term may also be considerable (Phillips and Kennedy 2002).

In 1979, *Astragalus magdalenae* var. *peirsonii* was listed by the State of California as an endangered species under the California Endangered Species Act (CESA). On October 6, 1998, we listed *A. magdalenae* var. *peirsonii* as threatened (63 FR 53596). We made this determination based upon the best scientific and commercial information available at the time. As stated and documented in the final listing rule, this action was taken, in part, because of threats of increasing habitat loss from off-highway vehicle (OHV) use, associated recreational development, destruction of plants, and lack of protections afforded the plant on Federal lands. We did not designate critical habitat for *A. magdalenae* var. *peirsonii* at the time of listing because such action was not considered prudent at that time.

## Finding

We have reviewed the petition and literature cited in and provided with the petition and considered it with other information in our files. We have found that the petition presents substantial information indicating that delisting *Astragalus magdalenae* var. *peirsonii* may be warranted. The petitioners have suggested that *A. magdalenae* var. *peirsonii* is a species that exists, in many years, largely as a seed bank, with relatively few standing individuals above ground. At the time we listed *A. magdalenae* var. *peirsonii* as a threatened species (63 FR 53596), we did not have—and so could not consider—information about the extent of the seed bank of this species. Petitioners have provided information suggesting the species may have a healthy seed bank (Phillips and Kennedy 2002), even though standing plants are frequently rare. Surveys conducted since we listed this species in 1998 indicate that, in some years, probably in response to increased precipitation, the number of standing plants considerably increases (TOA 2001; Willoughby 2000, 2001). While significant questions remain about the extent and viability of the seed bank, and the contribution of the increased numbers of standing plants in 1998 (Willoughby 2000) and 2001 (TOA 2001) to the seed bank and the persistence of this species into the future, we consider these to be issues relevant to the listing determination and warranting further investigation. Accordingly, we believe it is appropriate to consider this information, and any other new information available about this species and the threats it may face, in a status review.

## Public Information Solicited

When we make a finding that substantial information exists to indicate that listing or delisting a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information on *Astragalus magdalenae* var. *peirsonii*. This includes information regarding historical and current distribution, biology and ecology, ongoing conservation measures for the species and its habitat, and threats to the species and its habitat. We also request information regarding the adequacy of existing regulatory mechanisms. We request any additional

information, comments, and suggestions from the public, other concerned governmental agencies, Tribes, the scientific community, industry or environmental entities, or any other interested parties concerning the status of *A. magdalenae* var. *peirsonii*.

If you wish to comment, you may submit your comments and materials concerning this finding to the Field Supervisor, Carlsbad Fish and Wildlife Office (see ADDRESSES section). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold a respondent's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

## References Cited

A complete list of all references cited in this finding is available, upon request, from the Carlsbad Fish and Wildlife Office (see ADDRESSES section).

## Authority

The authority for this action is section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: August 29, 2003.

Steve Williams,

Director, Fish and Wildlife Service.

[FR Doc. 03-22600 Filed 9-4-03; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Meeting of the Klamath Fishery Management Council

**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 Klamath Fishery Management Council, established under

the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The Klamath Fishery Management Council makes recommendations to agencies that regulate harvest of anadromous fish in the Klamath River Basin. The objectives of this meeting are to hear technical reports, review the 2003 fisheries, and discuss fall Chinook salmon management and allocation issues related to the 2004 season. The meeting is open to the public.

**DATES:** The Klamath Fishery Management Council will meet from 9 a.m. to 5 p.m. on Wednesday, October 15, 2003, and from 8 a.m. to 5 p.m. on Thursday, October 16, 2003.

**Place:** The meeting will be held at the U.S. Fish and Wildlife Service, Yreka Fish and Wildlife Office, 1829 South Oregon Street, Yreka, California.

**FOR FURTHER INFORMATION CONTACT:** Phil Detrich, Field Supervisor, U.S. Fish and Wildlife Service; 1829 South Oregon Street; Yreka, California 96097; telephone (530) 842-5763.

For background information on the Klamath Council, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

Dated: August 28, 2003.

John Engbring,

Acting Manager, California/Nevada Office.

[FR Doc. 03-22611 Filed 9-4-03; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF JUSTICE

### Bureau of Alcohol, Tobacco, Firearms and Explosives

#### Agency Information Collection Activities: Proposed Collection; Comments Requested

**ACTION:** 30-day notice of information collection under review: report of multiple sale or other disposition of pistols and revolvers.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 68, Number 106, on page 33182 on June 3, 2003, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 6, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395-5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Report of Multiple Sale or Other Disposition of Pistols and Revolvers.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 3310.4, Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: Federal Government, State, Local, or Tribal Government. Abstract: The form is used by ATF to develop investigative leads of criminal activity. It identifies possible handgun

traffickers in the illegal market. Its use along the border identifies possible international traffickers.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 10,000 respondents, who will complete the form within approximately 12 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* The estimated total burden hours associated with this collection are 8,000.

If additional information is required contact: Ms. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: August 28, 2003.

**Brenda E. Dyer,**

*Deputy Clearance Officer, United States Department of Justice.*

[FR Doc. 03-22583 Filed 9-4-03; 8:45 am]

**BILLING CODE 4410-FY-P**

#### DEPARTMENT OF JUSTICE

#### Bureau of Alcohol, Tobacco, Firearms, and Explosives

#### Agency Information Collection Activities: Proposed Collection; Comments Requested

**ACTION:** 30-day notice of information collection under review: application for restoration of explosive privileges.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 68, Number 104, page 32546 on May 30, 2003, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 6, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of

Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503, or facsimile (202) 395-5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Overview of This Information Collection:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Application For Restoration of Explosives Privileges.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 5400.29. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Other: Business or other for-profit. ATF F 5400.29 is required in order to determine whether or not explosive privileges may be restored. It is used to conduct an investigation to establish if it is likely that the applicant will act in a manner dangerous to public safety or contrary to public interest.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 500 respondents will complete a 30 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 250

annual total burden hours associated with this collection.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: August 28, 2003.

**Brenda E. Dyer,**

*Deputy Clearance Officer, United States Department of Justice.*

[FR Doc. 03-22584 Filed 9-4-03; 8:45 am]

BILLING CODE 4410-FY-P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Agency Information Collection Activities: Proposed Collection; Comments Requested

**ACTION:** 30-day notice of information collection under review: Collection of laboratory analysis data on drug samples tested by non-Federal (State and local) crime laboratories.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 68, Number 123, on page 38098 on June 26, 2003, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 6, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503, or facsimile (202) 395-5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practiced utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Collection of Laboratory Analysis Data on Drug Samples Tested by Non-Federal (State and Local) Crime Laboratories.

(3) *Agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: None. Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice. Office of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local or Tribal Governments. Other: None. Abstract: Information is needed from state and local laboratories to provide DEA with additional analyzed drug information for the National Forensic Laboratory Information System.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 150 respondents participate in this voluntary collection. Respondents respond monthly. Each response, which is provided electronically, takes ten minutes.

(6) *An estimate of the total public burden (in hours) associated with this collection:* This collection is estimated to take 300 hours.

If additional information is required contact: Brenda E. Dyer, Deputy Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: August 27, 2003.

**Brenda E. Dyer,**

*Deputy Clearance Officer, Department of Justice.*

[FR Doc. 03-22582 Filed 9-4-03; 8:45 am]

BILLING CODE 4410-09-M

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

#### Agency Information Collection Activities: Proposed Collection; Comments Requested

**ACTION:** 30-Day notice of information collection under review: Project Safe Neighborhoods Semi-Annual Researcher Reporting Form.

The Department of Justice (DOJ), Office of Justice Programs (OJP) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 68, Number 68, page 68 on April 9, 2003, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 6, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503, or facsimile (202) 395-5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Extension of a Currently Approved Collection.

(2) *The title of the form/collection:* Project Safe Neighborhoods Semi-Annual Researcher Reporting Form.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form number: none. Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. Other: Business or other for-profit; not-for-profit institutions; Federal Governments; and state, local, or tribal government. The data, which will be submitted via the Semi-Annual Researcher Reporting Form in a timely fashion by the research for each of the 94 judicial districts, is essential to understanding gun violence at a national level. By collecting both outcome and intervention measures, the Department can identify programs that demonstrate success in reducing targeted gun crime. This information is essential to evaluating the program and providing feedback at the national level that can inform management decisions. Additionally, this data will assist the Department in discharging its obligations under the Government Performance and Results Act (GPRA).

(5) *An estimate of the number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 93 respondents will complete the form in approximately one hour twice a year.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden associated with this application is 186 hours.

*If additional information is required contact:* Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: August 29, 2003.

**Brenda E. Dyer,**

*Deputy Clearance Officer, Department of Justice.*

[FR Doc. 03-22606 Filed 9-4-03; 8:45 am]

**BILLING CODE 4410-18-P**

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

**[Prohibited Transaction Exemption 2003-27; Exemption Application No. D-10992 et al.]**

#### Grant of Individual Exemptions; Local 705 International Brotherhood of Teamsters Pension Plan (the Plan)

**AGENCY:** Employee Benefits Security Administration, Labor.

**ACTION:** Grant of individual exemptions.

**SUMMARY:** This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

### Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

#### Local 705 International Brotherhood of Teamsters Pension Plan (the Plan) Located in Chicago, Illinois

[Prohibited Transaction Exemption No. 2003-27; Application No. D-10992]

#### Exemption

The restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed purchase of a 10 ft. x 52.6 ft. parcel of real property (the Property) by the West Side Realty Corporation, a wholly owned affiliate of the Plan from Local 705 Building Corporation (the Building Corporation), a party in interest with respect to the Plan. This exemption is conditioned upon the adherence to the material facts and representations described herein and upon the satisfaction of the following requirements:

(a) The purchase of the Property by the Plan is a one-time transaction for cash;

(b) The Plan pays no more than the lesser of: (i) \$147,000; or (ii) the fair market value of the Property as determined at the time of the transaction;

(c) The fair market value of the Property is established by an independent, qualified, real estate appraiser that is unrelated to the Building Corporation or any other party in interest with respect to the Plan;

(d) The Plan will not pay any commissions or other expenses with respect to the transaction; and

(e) The Townsend Group, Institutional Real Estate Consultants, acting as an independent, qualified, fiduciary for the Plan, determines that the proposed transaction is in the best interest of the Plan and its participants and beneficiaries.

For a more complete statement of the facts and representations supporting the Department's decision to grant this

exemption, refer to the Notice of Proposed Exemption published on May 5, 2003 at 68 FR 23766.

**FOR FURTHER INFORMATION CONTACT:** Mr. Khalif I. Ford of the Department, telephone (202) 693-8540. (This is not a toll-free number.)

**Raleigh Pathology Laboratory Associates, P.A. Profit Sharing Plan (the Plan) Located in Raleigh, NC**

[Prohibited Transaction Exemption 2003-28; Exemption Application No. D-11171]

*Exemption*

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code,<sup>1</sup> shall not apply to the exchange of an unimproved waterfront lot (the Pine Knoll Shores Lot) owned by the Plan and allocated to the individually-directed account (the Account) in the Plan of James R. Edwards, M.D., for one unimproved tract of land (Parcel One) owned personally by Dr. Edwards and his spouse, Mrs. Delores Edwards.

This exemption is subject to the following conditions: (a) The exchange of the Pine Knoll Shores Lot between the Account and Dr. and Mrs. Edwards for Parcel One is a one-time transaction.

(b) The fair market value of the Pine Knoll Shores Lot and Parcel One is determined by qualified, independent appraisers, who will update their appraisal reports at the time the exchange is consummated.

(c) For purposes of the exchange, Parcel One has a fair market value that is no less than the fair market value of the Pine Knoll Shores Lot at the time the transaction is consummated.

(d) The terms and conditions of the exchange are at least as favorable to the Account as those obtainable in an arm's-length transaction with an unrelated party.

(e) The exchange does not involve more than 25 percent of the Account's assets.

(f) The exchange allows the Account to divest itself of property that is susceptible to hurricane damage and high maintenance costs, and it permits the Account to acquire virtually maintenance-proof property having increased liquidity.

<sup>1</sup> For purposes of this exemption, references to specific provisions of title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

(g) Dr. Edwards is the only participant in the Plan whose Account is affected by the transaction and he desires that such transaction be consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on June 24, 2003 at 68 FR 37545.

**FOR FURTHER INFORMATION CONTACT:** Ms. Blessed Chuksorji, telephone (202) 693-8567. (This is not a toll-free number.)

**Valley OB-GYN Clinic P.C. Employees Pension Plan (the Plan) Located in Saginaw, Michigan**

[Prohibited Transaction Exemption 2003-29; Application No. D-11172]

*Exemption*

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the loan of \$550,000 (the Loan) by the Plan to Valley OB-GYN Realty Company (the Company), a party in interest with respect to the Plan; provided that the following conditions are satisfied:

a. The Loan does not exceed 25% of the total assets of the Plan at any time;

b. The terms of the Loan are at least as favorable to the Plan as those terms which would exist in an arm's-length transaction with an unrelated party;

c. The Loan is secured by a building which has a fair market value, as determined by an independent, qualified appraiser, of at least 150% of the outstanding principal balance of the Loan (plus accrued but unpaid interest) throughout its duration (unless other property is pledged as collateral, as noted below in condition f.);

d. An independent, qualified fiduciary (the Independent Fiduciary) reviews the proposed terms and conditions of the Loan, and determines that the Loan is in the best interest and protective of the Plan and its participants and beneficiaries;

e. The Independent Fiduciary monitors the Loan throughout its duration and takes whatever actions are necessary to safeguard the interests of the Plan and its participants and beneficiaries; and

f. The Plan has the right, under the terms of the Loan and mortgage note related thereto, to require the Company to pledge additional property as collateral for the Loan, in the event such

property is needed to maintain full collateralization at the amount specified herein.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on June 24, 2003 at 68 FR 37546.

**FOR FURTHER INFORMATION CONTACT:** Ekaterina A. Uzlyan of the Department at (202) 693-8540. (This is not a toll-free number.)

*General Information*

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 2nd day of September, 2003.

**Ivan Strasfeld,**

*Director of Exemption Determinations,  
Employee Benefits Security Administration,  
Department of Labor.*

[FR Doc. 03-22623 Filed 9-4-03; 8:45 am]

**BILLING CODE 4510-29-P**

**DEPARTMENT OF LABOR****Employee Benefits Security Administration**

[Application No. D-11067, et al.]

**Proposed Exemptions; Sorenson Broadcasting Employee Stock Ownership Plan and Trust (the Plan)**

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of proposed exemptions.

**SUMMARY:** This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

*Written Comments and Hearing Requests*

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

**ADDRESSES:** All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Room N-5649, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. Attention: Application No. \_\_\_\_, stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to EBSA via e-mail or Fax. Any such comments or requests should be sent either by e-mail to: "moffitt.betty@dol.gov", or by Fax to (202) 219-0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N-1513, 200 Constitution Avenue, NW, Washington, DC 20210.

*Notice to Interested Persons*

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

**SUPPLEMENTARY INFORMATION:** The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

**Sorenson Broadcasting Employee Stock Ownership Plan and Trust (the Plan) Located in Sioux Falls, SD**

[Application No. D-11067]

*Proposed Exemption*

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).<sup>1</sup> If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the sale (the Sale) by the Plan to Sorenson Broadcasting Corporation (the Employer), a party in interest with

<sup>1</sup> For purposes of this proposed exemption, references to provisions of Title I of the Act, unless otherwise specified, refer also to corresponding provisions of the Code.

respect to the Plan, of 930 shares of common stock (the Common Stock) of the Employer; and (2) the extension of credit by the Plan to the Employer under the terms of a subsequent adjustment to the Sale price (the True-up) in connection with the Sale.

This proposed exemption is subject to the following conditions:

(a) The Sale occurs in the following manner:

(1) The Employer pays the Plan the fair market value of the Common Stock as of December 31, 2002, as determined by a qualified, independent appraiser, plus certain positive adjustments indicated in an addendum (the First Addendum) to a purchase agreement dated May 26, 2000 (the Purchase Agreement);

(2) The fair market value of the Common Stock as of the transaction date (the Closing Value) is determined no later than two months after the transaction date;

(3) As additional consideration, the Plan receives the difference between the Closing Value and the amount paid for the Common Stock on the transaction date (*i.e.*, the True-up), plus interest based on the New York prime market rate, effective on the transaction date until the date of the True Up; and

(4) As collateral for the True-up, Mr. Dean Sorenson, the principal shareholder of the Employer, deposits \$100,000 in cash in an escrow account for the benefit of the Plan to ensure that the Employer honors its obligation under the True-up.

(b) The Plan does not pay any commissions or other expenses with respect to the Sale.

(c) The transactions are approved by an independent fiduciary, who will monitor such transactions on behalf of the Plan.

(d) The Plan's trustees (the Trustees) determine that the Sale and True-up are appropriate transactions for the Plan and in the best interests of the Plan and its participants and beneficiaries.

*Summary of Facts and Representations*

1. The Employer is a South Dakota corporation maintaining its principal place of business in Sioux Falls, South Dakota. Prior to January 1, 2000, the Employer operated 17 radio stations which broadcasted on various frequencies to the Upper Midwestern States of the United States. As of January 1, 2000, the broadcasting stations have been operated by Waitt Radio Inc. (Waitt) of Dakota Dunes, South Dakota, an unrelated entity, under an interim programming agreement (the Interim Programming Agreement), the terms of which are

discussed below, between the Employer, as the Licensor, and Waitt, as the Programmer. Waitt is engaged in the radio broadcasting business in the Central and Upper Midwest. Waitt leases the buildings in which the Employer's radio stations are located from Mr. Dean Sorenson, the owner of the buildings.

Mr. Sorenson is President of the Employer and he owns 70 percent of the shares of outstanding Common Stock of the Employer. The Plan owns the remaining 30 percent of the shares of outstanding Common Stock of the Employer. Since January 1, 2000, the Employer has been operating as a subchapter "S" corporation.

2. The Plan is an employee stock ownership plan that is sponsored by the Employer. The Plan was established by the Employer on December 31, 1995. As of May 30, 2003, the Plan had 157 participants. As of December 31, 2002, which is the most recent date financial information is available, the Plan had total assets of approximately \$3,148,522. Also, as of the same date, the Plan held 930 shares of Common Stock, valued at \$3,148,230, and representing approximately 99% of the fair market value of the assets of the Plan.

Sharon Otten, Fred Smith, Scott Kooistra, Bruce Erlandson, Trent Schmotzer, Bill Grady, Holly Gill, and Tony Sieler, serve as the Trustees for the Plan, and have discretionary control over the Plan's assets involved in the transaction. These individuals were all employees of Sorenson at the time the Interim Programming Agreement went into effect, although since that time, some of the Sorenson employees have become Waitt employees.

3. The Plan originally acquired 930 shares of non-treasury Common Stock from Mr. Sorenson in a single transaction on December 31, 1996.<sup>2</sup> The Common Stock was valued by Mr. Gerald C. Johnson, Jr., the President and sole owner of Johnson Communications Properties, Inc. of Minneapolis, Minnesota. Mr. Johnson is a qualified, independent broker and appraiser of broadcasting properties, with extensive experience in valuing radio stations in the upper Midwest. Although Mr. Johnson's original valuation (the Original Valuation) placed the total value of such Common Stock on the

<sup>2</sup>The applicant represents that the acquisition and holding, by the Plan, of common stock of the Employer is covered under section 408(e) of the Act. However, the Department expresses no opinion as to the applicability of the statutory exemption provided by section 408(e) of the Act to the original transaction. Further, the Department, herein, is offering no relief for transactions other than the transactions described in this exemption.

date of the purchase at \$3,415,300, the actual purchase price paid by the Plan to Mr. Sorenson was negotiated down to \$3,331,577.<sup>3</sup>

4. The Plan derived the funds to purchase the Common Stock from Mr. Sorenson and from First Dakota National Bank (the Bank), an unrelated entity with respect to the Plan. Mr. Sorenson made one loan (the Sorenson Loan) to the Plan in the amount of \$2,898,718 and the Bank made another loan (the Bank Loan; together, the Loans) to the Plan in the amount of \$432,859.

The Sorenson Loan was evidenced by a promissory note (the Sorenson Promissory Note) dated December 31, 1996 between the Plan and Mr. Sorenson. The Sorenson Promissory Note was executed simultaneously with the Sorenson Loan and provided that the Plan repay the principal sum of the Sorenson Loan plus interest thereon at an annual interest rate of 8.5 percent. Such note required the Plan to make annual payments of both principal and interest totaling \$502,226.45, commencing on September 15, 1997. There were no prepayment penalties.

The Sorenson Promissory Note was made subject to the provisions of a pledge agreement (the Sorenson Pledge Agreement), also dated December 31, 1996, between the Plan and Mr. Sorenson. The Sorenson Pledge Agreement secured Mr. Sorenson's first lien interest in the 930 shares of Common Stock purchased by the Plan. An amortization schedule indicated that under normal amortization, the Sorenson Loan would be paid off by September 15, 2004.

5. The Bank Loan was also evidenced by a promissory note (the Bank Promissory Note), dated December 31, 1996, that was executed between the Plan and the Bank. The Bank Promissory Note required the Plan to repay the principal sum of the Bank Loan plus interest thereon at an annual interest rate of 8.5 percent until September 15, 2000. The Bank Promissory Note also provided that the Plan make three regular annual payments of \$75,316.98 and one irregular last payment, estimated at \$321,370.83. There were no prepayment penalties. The Bank Promissory Note was secured by both the Employer's and Mr. Sorenson's personal guarantees of

<sup>3</sup>The applicant represents that the difference between the negotiated price of the original 930 shares of Common Stock the Plan bought and the price listed in the Original Valuation does not constitute an excess contribution to the Plan in violation of sections 401(a)(4), 404 and 415 of the Code.

the entire \$432,859 principal amount of the Bank Loan.<sup>4</sup>

6. Also on December 31, 1996, Mr. Sorenson, in his capacity as President of the Employer, sent the Bank a letter agreement. The agreement stated, in pertinent part, that in consideration of the Bank Loan and all other financial accommodations provided by the Bank to the Plan, the Employer would not, without the Bank's prior written consent, amend any provision of the Plan requiring the Employer to make contributions necessary to enable the Plan to discharge its obligations under the Bank Loan and the Bank Promissory Note.

7. Cash that the Plan received from the Loans was converted into Common Stock. The Common Stock is being maintained by the Plan in a "suspense" account (the Suspense Account), separate from the participants' individual accounts. Initially, 317,752 shares of Common Stock were allocated to participants from the Suspense Account as payments were made by the Plan under the Loans. Because it was determined that there was insufficient compensation to permit deductible contributions, and that payments of the amounts due would violate the annual addition limits of section 415 of the Code, a freeze was placed on the Plan assets in 1999 in order to prevent any new participation in the Plan. Therefore, no further allocations of Common Stock were made to participants from the Suspense Account. At present, 612,248 shares of such stock continue to be held in the Suspense Account.

8. At the time of the freeze, there was \$105,000 available in Plan assets to make payments on the Loans. Both Mr. Sorenson and the Bank agreed to receive interest only payments on the Sorenson Loan until a sale of the Common Stock held by the Plan could be made, at which point they would be paid the principal amount of their respective Loans. Interest only payments were made on the Loans throughout 2000 and briefly during 2001, until the money ran out. The last interest only payment was made by the Plan to Mr. Sorenson on October 16, 2000 and to the Bank on

<sup>4</sup>The applicant represents that the Sorenson Loan and the Bank Loan comply with section 408(b)(3) of the Act and the regulations promulgated thereunder. In this regard, the Department is expressing no opinion on whether the Loans initially satisfied, or continue to satisfy, the requirements necessary for exemptive relief under section 408(b)(3) of the Act, nor is any relief provided for those Loans under this proposed exemption. The relief provided by this exemption is limited solely to the sale of the Common Stock to the Employer, a party in interest with respect to the Plan.

June 29, 2001. To date, no further payments have been made by the Plan. At present, the outstanding principal balances of the Sorenson Loan and the Bank Loan are \$1,979,095 and \$295,808, respectively.

9. Although the Plan defaulted on the Loans, the default provisions therein gave both Mr. Sorenson and the Bank the discretion to waive foreclosure on the Loans if the circumstances warranted. Therefore, both Mr. Sorenson and the Bank agreed that the enforcement of their rights to the collateral for the Loans was not in their best interests, as it would not be helpful to completing an eventual sale of the Employer to Waitt. On December 28, 2001, Mr. Sorenson and the Bank signed an agreement to extend the maturity date of the Loans from December 15, 2001 until June 15, 2002 in order that neither Loan could be foreclosed upon. Since then, in an agreement signed by both parties on December 27, 2002, the maturity date of the Loans was further extended until June 15, 2003. Such agreement has been re-extended pending the outcome of this exemption request.<sup>5</sup>

10. Mr. Sorenson wishes to retire from the day-to-day management of the individual stations. While he had hoped that a group of key employees would emerge to acquire a small ownership stake outside of the Plan and assume the role of group-wide management, this has not happened. Mr. Sorenson also believes that a decrease in the fair market value of the radio stations is likely to occur over the next several years. Therefore, he has researched the marketplace to determine a prospective sale price should there be a willing buyer. Based on his research, Mr. Sorenson and his advisors consider a multiple of cash flows (a key factor used in calculating the purchase or selling price of radio stations) within the range of 8.0 and 9.0 to be a realistic target.

11. Mr. Sorenson has been approached by Waitt, a willing buyer, and the multiple of cash flows offered and agreed upon by Waitt and the Employer is 8.75. The Employer has also negotiated with Waitt an arrangement to transfer ownership of the broadcasting stations to Waitt. The preferred method is for the parties to enter into a long-term programming

agreement (the Programming Agreement) with a purchase option (the Option Agreement) at its conclusion.

12. The Interim Programming Agreement with Waitt, dated January 1, 2000, was signed by Mr. Sorenson in his capacity as President of the Employer, and was approved by the Trustees on behalf of the participants. As initially executed, the Interim Programming Agreement stipulates that, not later than September 1, 2000, the Employer and Waitt would enter into either: (a) The Programming Agreement concurrently with the Option Agreement or (b) a stock purchase agreement (the Stock Purchase Agreement). However, because the applicant did not obtain the requested exemption as of the September 1, 2000 termination date, neither option was selected. Therefore, the Interim Programming Agreement still remains in effect and it has been extended by the Employer and Waitt every six months.

13. As consideration, under the Interim Programming Agreement, Waitt is required to pay the Employer \$114,516, which amount is to be increased (or decreased) each month by an amount equal to \$13,500 for every one percent increase (or decrease) in the New York prime rate, as published in the Wall Street Journal, on the 15th day of the preceding month. In addition, Waitt is required to reimburse the Employer for expenses incurred in the operation of the station and to deposit \$1,374,000 in an escrow account. Also, pursuant to the Interim Programming Agreement, the broadcasting stations are being operated by Waitt, who supplies the stations with programming, while the Employer maintains ultimate control over the stations' finances, personnel matters and programming content. Further, the Interim Programming Agreement requires the Employer to continue to employ 15 management employees of the stations. All other employees became Waitt employees effective April 1, 2000, at the start of the Interim Programming Agreement.

14. The Interim Programming Agreement provides that upon its termination date, Waitt may exercise either of two options. First, Waitt can extend the Interim Programming Agreement into the ten year Programming Agreement that will end on December 31, 2009. At this time, Waitt may purchase the assets of the Employer for \$12,967,023, under the terms of the Option Agreement, provided Waitt pays the Employer \$3,200,000 as the option amount. Second, Waitt may immediately purchase, for \$16,167,023 (subject to certain adjustments), all of the

Employer's Common Stock held by the Employer and the Plan, pursuant to the provisions of the Stock Purchase Agreement. The Interim Programming Agreement will terminate on the earliest of (a) the effective date of the Programming Agreement and the execution of the Option Agreement, (b) the closing date of the Stock Purchase Agreement, or (c) a date mutually agreed to by the parties with at least thirty (30) days prior written notice.<sup>6</sup>

15. The Trustees have concluded that a sale of the Common Stock and the retirement of the Loans with the Sale proceeds would be in the best interests of the Plan participants. Moreover, the Trustees believe that allowing the debt to go into default would only disrupt this process and could damage the interests of the Plan participants. Therefore, as noted above, both Mr. Sorenson and the Bank offered, and the Trustees accepted, the waiver of default and deferral of payments pending the resolution of the proposed Sale and True-Up transactions described herein.<sup>7</sup>

16. To facilitate the termination of the Plan and allow the participants (most of whom are now Waitt employees) to diversify their portfolios into other investments with better future returns, the Trustees propose that the Common Stock held by the Plan be sold. The Employer is willing to purchase the Common Stock (and the Trustees are willing to sell such stock) under a deferred payment arrangement, in accordance with a "True-up" or adjustment to the purchase price. The Plan will not be required to pay any fees or expenses in connection with the Sale. Then, the Employer proposes to distribute the Sale proceeds to the participant accounts in the Plan.

Because the Employer is a subchapter S corporation, section 408(d)(2)(A) of the Act provides that the statutory relief under section 408(e) of the Act is unavailable with respect to the proposed Sale transaction since more than 50 percent of the Common Stock is owned by Mr. Sorenson, a shareholder-employee. Also, section 408(e) of the Act does not exempt extensions of credit in connection with adjustments to

<sup>6</sup> To date, neither the Programming Agreement nor the Stock Purchase Agreement have gone into effect. From correspondence in the exemption application file, it appears that the parties are inclined to enter into the Programming Agreement, which will be dated contemporaneously with the date of the Sale transaction described herein.

<sup>7</sup> Although the Trustees represent that such waiver should not cause the Loans to lose their status as exempt loans under section 408(b)(3) of this Act, the Department again expresses no opinion in this proposed exemption on whether the provisions of section 408(b)(3) of the Act have been violated while the Loans are outstanding.

<sup>5</sup> In regard to the deferral of payments, the Employer also agreed to waive its right to recoup interest payments made on behalf of the Plan under its guaranty agreement to the Bank with respect to the Bank Loan (see Representation 5) in order that the Plan could retain a greater amount of the final Sale proceeds. It is represented that the interest paid by the Employer through February 28, 2003 is \$52,670.96.

the Sale price, such as those contemplated under the True-up. Accordingly, an administrative exemption is requested from the Department.

17. On May 26, 2000, the Plan and the Employer entered into a purchase agreement (the Purchase Agreement) to acquire the Common Stock held by the Plan. The purchase price was to be based on the amount which would have been due the Plan from Waitt for shares of Common Stock under the Stock Purchase Agreement. According to the Stock Purchase Agreement, Waitt promised to pay the Employer and the Plan a total of \$16,167,023 for such Common Stock. The purchase price was, however, subject to various adjustments. For example, not later than five days prior to the transaction closing date, the sellers would be required to submit a *pro forma* balance sheet to Waitt that had been prepared in accordance with generally-accepted accounting principles, along with a schedule setting forth the value of the Employer's Common Stock (the Computation of Stock Value, as calculated by Mr. Johnson, the independent appraiser who prepared the Original Valuation of the Common Stock). The purchase price would then be adjusted to an amount equal to the total value of the Employer's Common Stock, as set forth on such schedule. In addition, the parties agreed that the purchase price would be further adjusted to reflect the loss of the depreciation on the underlying broadcast assets. However, for purposes of the Purchase Agreement, it was determined that the Plan's price per share for the Common Stock would be valued without the loss of the depreciation adjustment.

18. On January 8, 2002, an addendum (the First Addendum) was made to the Purchase Agreement. In this regard, the Plan's price per share to be paid by the Employer for the Common Stock would be calculated to include additional value due to state and Federal taxes, amounts due to certain employees under an Individual Employment and Incentive Compensation Agreement, and accrued sales commissions.

19. According to a second addendum to the Purchase Agreement (the Second Addendum), effective November 13, 2002, the Purchase Agreement was again amended. In this regard, the Programming Agreement and proposed Sale by the Plan of its Common Stock to the Employer will occur on the first month following the publication, in the **Federal Register**, of the notice granting the final exemption (the Closing Date). The Employer will pay the Plan the fair

market value of the Common Stock as of December 31, 2002, as determined by an independent appraisal, plus the adjustments indicated in the First Addendum (e.g., Federal and state taxes, sales commissions, etc.). The fair market value of the Common Stock as of the Closing Date (the Closing Value) will be determined no later than two months after the Closing Date by an independent appraisal.

The Second Addendum also provides that the True-up, which is the difference between the Closing Value and the amount which has already been deposited on the Closing Date, will be paid to the Plan, plus interest based on the New York prime market rate, effective on the Closing Date until the date of the True-up. As collateral for the True-up, Mr. Sorenson has agreed to deposit \$100,000 cash in an escrow account for the benefit of the Plan.

20. In an independent appraisal report dated February 27, 2003, Mr. Johnson again valued the Common Stock held by the Plan and Mr. Sorenson, as of December 31, 2002 (the 2002 Appraisal). Mr. Johnson noted that the established value of all of the radio stations owned by the Employer was \$16,167,023 as opposed to the value of the Common Stock. He explained that the valuation of the Employer's assets was based upon a multiple of 8.75 times the adjusted cash flow of the Employer's radio affiliates for the year ending December 31, 1998, including a provision for the costs incurred in constructing a radio station located in South Dakota, which was not completed until mid-1999. Mr. Johnson further noted that the \$16,167,023 aggregate value of the Employer's assets had been reduced by \$3,500,000 to compensate Waitt for the fact that it would be acquiring Employer Common Stock as opposed to the Employer's underlying assets. He indicated that he believed the 8.75 multiple for the Employer's radio stations was entirely appropriate and that the \$16,167,023 selling price was realistic for such stations. Although Mr. Johnson did not express an opinion regarding the \$3,500,000 downward adjustment to the selling price, he acknowledged that such a price reduction was common in the industry.

As stated above, it was Mr. Johnson's opinion that \$16,167,023 represented the total fair market value of the various broadcast properties that were owned by the Employer as of December 31, 2002 rather than the value of the Common Stock. For the year ending December 31, 2002, he noted that the Computation of Stock Value equaled \$10,494,101. Because the Plan holds a 30 percent interest in all of the Employer's assets,

Mr. Johnson placed the fair market value of the Common Stock held by the Plan at \$3,148,230 ( $\$10,494,101 \times 30\%$ ) as of December 31, 2002.

21. Thus, on the basis of the 2002 Appraisal, the Plan will receive 30% of \$15,794,416 from the Employer prior to time of the True-up. This gross amount reflects the \$10,494,101 value attributed to the Common Stock, plus the following positive adjustments: (a) State and Federal income taxes totaling \$3,500,000, (b) a \$1,692,315 aggregate amount due to certain employees under an "Individual Employment and Incentive Agreement," and (c) accrued sales commissions of \$108,000 that the Employer would be obligated to pay. Therefore, the net amount owed by the Employer to the Plan will be \$4,738,325, without the inclusion of the True-Up.

22. Upon conclusion of the Sale, proceeds from the Sale will effectively be split into two pools: (a) The proceeds related to the allocated shares (the Allocated Share Proceeds) and (b) the proceeds related to the unallocated shares (the Unallocated Share Proceeds). The Allocated Share Proceeds will be allocated to each Plan participant based on the shares held in their account. The Unallocated Share Proceeds will be used to pay off the Loans to the Bank and Mr. Sorenson. It is anticipated that the share proceeds will exceed the Loans by approximately \$290,000 and that such gain will be allocated to the participants.

23. Mr. John F. Archer, an attorney with the law firm of Hagen Wilka & Archer, P.C., of Sioux Falls, South Dakota, was designated by the Trustees to serve on behalf of the Plan as the independent fiduciary. In such capacity, Mr. Archer is representing the interests of the Plan and the Plan participants in connection with the Sale and the True-up. Mr. Archer asserts that he is qualified to act as an independent fiduciary for the Plan because of his background as it relates to reviewing business valuations. Such experience includes his position as the South Dakota Division of Securities Director from 1978 until 1983, in which he was chairman of the North American Securities Administrators Association Franchise Committee, and his private practice, which covers securities law, mergers and acquisitions, real estate law, franchise law, corporate law and title insurance law. In addition, Mr. Archer represents that he has been a speaker discussing securities and franchise law at various Continuing Legal Education seminars and has served on the South Dakota State Bar Committee on Corporations. Mr. Archer represents that he has had a professional

relationship with Mr. Sorenson at various times between 1989 and 1994 and has assisted Mr. Sorenson in the purchase of his personal residence as well as the sale or purchase of Mr. Sorenson's commercial enterprises. However, Mr. Archer does not believe that these matters carry any conflict of interest with respect to the proposed transactions.

Mr. Archer states that he has no current ongoing relationship with Mr. Sorenson or the Employer, and he confirms that his firm will derive less than one percent of its gross annual income from the Employer. Mr. Archer has agreed to represent the interests of the Plan and its participants and he has executed a representation agreement (the Representation Agreement) with the Trustees containing the duties and capacities that such representation includes.

24. As independent fiduciary, Mr. Archer certifies that he has reviewed and analyzed the proposed transactions and related documents, as well as their potential effects, both direct and collateral, to the Plan participants. In addition, Mr. Archer states that he has evaluated the overall fairness of the subject transactions, specifically as to the other parties involved, and the validity of the proposed valuation. Based on such review and evaluation, Mr. Archer states that he is of the opinion that the 2002 Appraisal reflects a fair valuation of the Employer. He also explains that the sale of the shares owned by the Plan to the Employer based on the price set forth in the Purchase Agreement, treats the Plan participants fairly and justly in comparison to the other parties involved in such transaction. Further, after reviewing the 2002 Appraisal, Mr. Archer states that he concurs with the appraisal amount and he is of the opinion that the Sale is in the best interests of the Plan.

In addition, Mr. Archer states that the subject transactions are in the best interests of the Plan and its participants because the price being paid to the Plan is based on the sale of the Employer's Common Stock to a third party and it was determined on an arm's length basis between the Employer and Waitt. In reviewing other similar sales, Mr. Archer states that the Sale price in this case is consistent with other transactions dealing with radio stations and that the Plan's price per share will be higher than that paid to Mr. Sorenson because the Plan's interest in the Employer's Common Stock will be valued to include certain special adjustments (*i.e.*, Federal and state income taxes, amounts due to

employees under Individual Employment and Incentive Compensation Agreements and accrued sales commissions). Mr. Archer states that his role as representative and adviser to the Plan will continue until such time as the transactions are completed or abandoned. Mr. Archer explains that the transactions will be deemed complete for purposes of his representation upon receipt of the final valuation to be used in the distribution of funds to Plan participants or will be deemed abandoned upon receipt of notice from the trustee of the Plan, the Employer, or Mr. Sorenson that the transactions will not be completed.

25. Mr. Archer notes that while the Employer is receiving a programming fee of \$13,500 per month under the Interim Programming Agreement from Waitt, it would appear that this fee is normal and customary in today's marketplace and that it is not uncommon that when a transaction of this sort is made that this type of fee is paid to a licensor such as the Employer. Mr. Archer states that he has reviewed this matter with other owners of radio stations and has found this practice to be consistent. Consequently, he believes that the payment of this programming fee by Waitt to the Employer does not make the Sale unfair to the Plan participants. Mr. Archer also notes that Mr. Sorenson is receiving lease payments from Waitt for the rental of the buildings that are owned by Mr. Sorenson in which the Employer's radio stations are located. Assuming that the lease payments are fair market value, Mr. Archer does not believe these rental payments would make the proposed Sale transaction unfair to the Plan participants.

Further, Mr. Archer opines that the subject transactions are protective of the Plan, participants and beneficiaries because they comply with the organization and governing documents of the Plan and the Trustees have been given all information necessary to determine their fairness.

Finally, Mr. Archer confirms that his duties with respect to the transactions are to ensure that there is a final valuation of the Common Stock as of the Sale date, to supervise the payment of the True-up and disbursement of the funds to Plan participants, and the filing of tax notices and final Form 5500, among other things. Mr. Archer also confirms that he will take all actions that are necessary and proper to enforce and protect the rights of the Plan participants and beneficiaries.

26. In summary, it is represented that the transactions will satisfy the statutory

criteria for an exemption under section 408(a) of the Act because:

(a) The Sale will occur in the following manner:

(1) The Employer will pay the Plan the fair market value of the Common Stock as of December 31, 2002, as determined by a qualified, independent appraiser, plus certain adjustments indicated in the Second Addendum to the Purchase Agreement;

(2) The Closing Value of the Common Stock will be determined no later than two months after the transaction date;

(3) As additional consideration, the Plan will receive the difference between the Closing Value and the amount paid for the Common Stock on the transaction date (*i.e.*, the True-up), plus interest based on the New York prime market rate, effective on the transaction date until the date of the True-up; and

(4) As collateral for the True-up, Mr. Dean Sorenson will deposit \$100,000 in cash in an escrow account for the benefit of the Plan to ensure that the Employer honors its obligation under the True-up.

(b) The Plan will not pay any commissions or other expenses with respect to the Sale.

(c) The transactions have been approved by an independent fiduciary who will monitor such transactions on behalf of the Plan.

(d) The Trustees have determined that the Sale and True-up will be appropriate transactions for the Plan and in the best interests of the Plan and its participants and beneficiaries.

*For Further Information Contact:* Ms. Anna M.N. Mpras of the Department, telephone (202) 693-8565. (This is not a toll-free number.)

**Hayden O. Grona IRA (the IRA)  
Located in San Antonio, Texas**

[Application No. D-11192]

**Proposed Exemption**

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale of certain unimproved land (the Property) by the IRA to Mr. Grona's children (the Children), disqualified persons with

respect to the IRA;<sup>8</sup> provided that the following conditions are met:

(a) The sale is a one-time cash transaction;

(b) The IRA receives the current fair market value for the Property, as established at the time of the sale by an independent, qualified appraiser; and

(c) the IRA pays no commissions or other expenses associated with the sale.

#### *Summary of Facts and Representations*

1. The IRA is an individual retirement account, as described in section 408(a) of the Code, which was established by Hayden O. Grona (Mr. Grona) in 1989. As of March 19, 2003, the IRA had approximately \$6,701,128 in total assets. The Trust Company, N.A., located at 711 Navarro, Suite 750, in San Antonio, Texas, is the custodian of the IRA (the Custodian). Mr. Grona is the trustee for the IRA (the Trustee). The Children are identified as Mr. Nelson Grona, Ms. Suzanne Grona White, and Mr. James Grona.

2. On February 8, 2001, the IRA purchased the Property from Leigh Stelmach, an unrelated third party, for \$1,791,403. The IRA paid the entire amount of the purchase price in cash at closing. At the time of purchase, the Property represented approximately 21% of the IRA's total assets. The applicant represents that the Property is not adjacent to any other property owned individually, or jointly, by Mr. Grona and/or the Children. It is represented that Mr. Grona, as the Trustee, made the decision to purchase the Property for the IRA as an investment, to be developed by the IRA into an income-producing asset. However, it is represented, that shortly after acquisition, Mr. Grona realized that the Property was not a suitable investment for the IRA. The IRA has paid approximately \$5,484 in real estate taxes due to its ownership of the Property. There have been no additional expenses incurred by the IRA as a result of its ownership of the Property.

3. The Property is an approximately 1,515 acre tract of unimproved land, located in Medina and Bandera Counties, Texas. The applicant represents that since the acquisition of the Property by the IRA, the Property has not been leased to or used by any disqualified persons, as defined under section 4975(e)(2) of the Code. In addition, the Property has not generated any income for the IRA since its acquisition.

<sup>8</sup> Pursuant to CFR 2510.3-2(d), there is no jurisdiction with respect to the IRA under Title I of the Act. However, there is jurisdiction under Title II of the Act, pursuant to section 4975 of the Code.

4. The Property was appraised on February 27, 2003 (the Appraisal). The Appraisal was prepared by Grady Hoermann, MSA (Mr. H), who is an independent, Texas state certified, general real estate appraiser. Mr. H is with Grady Hoermann Appraisal Service, which is located in San Antonio, Texas. Mr. H relied primarily on the sales comparison approach, with an analysis of recent sales of similar properties in the local geographic area. After examining available sales data, Mr. H determined that the Property's fair market value would be approximately \$900 per acre.

Accordingly, Mr. H represents that the Property had a fair market value of approximately \$ 1,363,000, as of February 27, 2003.

5. The applicant proposes that the Children purchase the Property from the IRA in a one-time cash transaction. The applicant represents that the proposed transaction would be in the best interest and protective of the IRA. The IRA will be able to dispose of the Property, which has depreciated in value since it was originally acquired, at its fair market value and will not pay any commissions or expenses associated with the sale. The Appraisal will be updated at the time the transaction is consummated. It is represented that Mr. Grona is currently age 68. He will be required to begin receiving distributions from the IRA when he attains age 70½. The applicant states that the sale of the Property will increase the IRA's liquidity, therefore putting the IRA into a better position to make distributions to Mr. Grona once he reaches the age of 70½. In this regard, the Children will pay the IRA an amount in cash equal to the current fair market value of the Property at the time of the transaction, based on an update of the Appraisal. Thus, the applicant maintains that the sale of the Property by the IRA to the Children will: (i) increase the liquidity of the IRA's portfolio; (ii) enable the Trustee to diversify the assets of the IRA; (iii) enable the IRA to sell an illiquid non-income producing asset; and (iv) facilitate future distributions of assets to Mr. Grona.

6. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 4975(c)(2) of the Code because:

(a) The sale will be a one-time cash transaction;

(b) The IRA will receive the current fair market value for the Property, as established at the time of the sale by an independent, qualified appraiser;

(c) The IRA will pay no commissions or other expenses associated with the sale; and

(d) The sale will:

(i) Provide the IRA with more liquidity and facilitate future distributions to Mr. Grona;

(ii) Enable the IRA to diversify its assets;

(iii) Allow the IRA to divest itself of a non-income producing asset that has depreciated in value; and

(iv) Allow the IRA to reinvest the proceeds of the sale in other investments that potentially could yield greater returns.

#### **Notice to Interested Persons**

Because Mr. Grona is the sole participant of the IRA, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons (other than the Custodian). Comments and requests for a hearing are due thirty (30) days from the date of publication of this notice in the **Federal Register**.

*For Further Information Contact:* Ekaterina A. Uzlyan of the Department at (202) 693-8540. (This is not a toll-free number.)

#### **Newspaper Agency Corporation Pension Trust (the Plan) Located in Salt Lake City, Utah**

[Application No. D-11194]

#### *Proposed Exemption*

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).<sup>9</sup>

#### **I. Transactions**

If the exemption is granted, the restrictions of sections 406(a)(1)(A)-(D), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The leasing of certain improved real property (the Property) by the Plan to the Newspaper Agency Corporation (the Employer), a party in interest with respect to the Plan, pursuant to the terms of a lease (the New Lease), effective August 1, 2003; and (2) the guarantee by MediaNews Group, Inc. (MediaNews) and Deseret News Publishing Corporation (Deseret) (collectively, the Owners of the Employer) of the obligations of the Employer under the terms of the New Lease.

<sup>9</sup> For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer to the corresponding provisions of the Code.

## II. Conditions

This exemption is conditioned upon the adherence to the material facts and representations described herein and upon the satisfaction of the following requirements:

(a) An independent, qualified fiduciary (the I/F), acting on behalf of the Plan, determines that each of the proposed transactions is feasible, in the interest of, and protective of the Plan and the participants and beneficiaries of such Plan;

(b) The I/F manages the Property on an on-going basis and is empowered to take whatever action it deems appropriate to serve the best interest of the Plan and its participants and beneficiaries, including but not limited to the retention, leasing, or sale of the Property;

(c) The fair market value of the Property does not now and will at no time exceed twenty-five percent (25%) of the fair market value of the total assets of the Plan;

(d) The I/F negotiates, reviews, and approves the terms of the subject transactions;

(e) The terms and conditions of the subject transactions are, and will at all times be, no less favorable to the Plan than terms obtainable by the Plan under similar circumstances when negotiated at arm's length with an unrelated third party;

(f) An independent, qualified appraiser determines the fair market value of the rental of the Property, as of August 1, 2003, and annually thereafter;

(g) The I/F monitors compliance with the terms of the New Lease throughout the duration of such lease and is responsible for legally enforcing the payment of the rent and the proper performance by the Employer and/or the Owners of the Employer of all other obligations of the Employer under the terms of such lease;

(h) The Plan incurs no fees, costs, commissions, or other charges or expenses as a result of its participation in the transactions which are the subject of this exemption, other than the fee payable to the I/F for services rendered to the Plan and the fee payable to the independent, qualified appraiser for the annual appraisal of the fair market value of the Property;

(i) The I/F ensures that the terms and conditions described herein are at all time satisfied;

(j) The I/F will place the Property on the market for sale or lease to unrelated third parties, within fifteen (15) calendar days of the date of the publication of the grant of this proposed exemption in the **Federal Register**, and

subject to the termination of the New Lease, as provided in section II(k), below, of this exemption, will proceed to sell or lease such Property to any such unrelated third party who presents a *bona fide* sale or lease offer which the I/F determines to be prudent and in the best interest of the Plan and its participants and beneficiaries; and

(k) Notwithstanding anything to the contrary in the New Lease, the Plan may at any time upon six (6) month prior written notice to the Employer terminate the New Lease and the Employer's occupancy of the Property, effective as of the date specified in such notice, which date shall be at least six (6) months after the date such written notice is given to the Employer (but in no event extending the New Lease beyond the then current lease term.

Effective Date: If the proposed exemption is granted, the exemption will be effective August 1, 2003.

### *Summary of Facts and Representations*

1. The Plan is a tax-qualified defined benefit pension plan covering 860 participants and beneficiaries, as of June 20, 2003. The total fair market value of the Plan's assets, as reflected in the FORM 5500 annual report for 2001 was \$37,143,730.

2. The current trustee of the Plan is Wells Fargo Bank, N.A. (Wells Fargo), which is solely responsible for the investment of Plan assets. In addition, Wells Fargo has acknowledged and represented that it has accepted the appointment to serve as the I/F, acting on behalf of the Plan for purposes of the subject exemption. It is represented that the Plan is responsible for the payment of Wells Fargo's fees.

It is represented that on April 1, 1996, Wells Fargo acquired First Interstate Bank, the former trustee of the Plan and the I/F under terms of a prior exemption,<sup>10</sup> and concurrently assumed the responsibilities and obligations of First Interstate Bank. In this regard, it is represented that there was no period of time when the Plan did not have a bank, acting as trustee and an I/F on its behalf.

It is represented that Wells Fargo is independent in that there are no common officers or directors with the Employer or the Owners of the Employer. Substantially less than one percent (1%) of Wells Fargo's total deposits and substantially less than 1% of its outstanding loans (both in dollar amounts) are attributable, respectively, to deposits and loans of the Employer and its affiliates.

<sup>10</sup> Prohibited Transaction Exemption 85-37 (PTE 85-37) was published at 50 FR 7008 (February 19, 1985). The proposed exemption (D-5540) was published at 49 FR 47452 (December 4, 1984).

It is represented that Wells Fargo is qualified to serve as the I/F on behalf of the Plan in that Wells Fargo is knowledgeable as to its duties and responsibilities as a fiduciary under the Act and is knowledgeable as to the subject transactions. In addition, Wells Fargo represents that it has many years experience managing assets and is currently responsible for managing approximately \$183,000,000,000 in assets of its customers.

3. The Property consists of a parcel of real estate (1.208 acres) improved by a one-story masonry warehouse building, constructed in 1968, and estimated to contain 52,635 square feet of space. The Property is located south of the downtown central business district of Salt Lake City, Utah. This neighborhood is primarily a general business area with some commercial and light industrial uses.

The Property is situated on a railroad spur. However, it is represented that the Salt Lake City Mayor's office has verbally expressed possible plans which may lead to the elimination of such railroad spur.

The Plan owns the Property, unencumbered by any outstanding mortgage or any other indebtedness. As of December 31, 2001, the fair market value of the Property constituted 4.361% of the total assets of the Plan.

The Plan purchased the Property in July of 1971, from Wycoff Warehouse, Inc., an unrelated third party, for a purchase price of \$259,000. The Plan began leasing the Property to the Employer, pursuant to the terms of a lease (the Original Lease) entered into on July 21, 1971. The applicant represents that the Original Lease satisfied the conditions provided by section 414(c) of the Act, because: (1) The Original Lease was entered into before July 1, 1974, when such a lease was not a prohibited transaction within the meaning of section 503(b) of the Code; and (2) the terms of the Original Lease were as favorable to the Plan as those of an arm's length transaction with an unrelated party.<sup>11</sup>

On August 1, 1983, the Plan and the Employer entered into another lease (the Old Lease) which superseded the Original Lease. With regard to the Old Lease between the Plan and the Employer, the Department issued, in 1985, a retroactive prohibited

<sup>11</sup> Section 414(c)(2) of the Act provided a statutory exemption for a transitional period ending June 30, 1984, for certain leases meeting specified conditions. The Department expresses no opinion, herein, as to the applicability of section 414(c)(2) of the Act to the past leasing of the Property by the Plan to the Employer under the terms of the Original Lease.

transaction exemption, PTE 85–37, effective, as of July 1, 1984. The Old Lease provided for an initial ten (10) year rental term with two (2) additions renewal period of ten (10) years each, exercisable at the discretion of the Employer. In July 1993, the Employer opted to renew the Old Lease. On July 31, 2003, rather than extend the Old Lease for an additional term of ten (10) years, the Employer elected to terminate the Old Lease. On August 1, 2003, the Employer and the Plan entered into the New Lease.

4. The New Lease provides for an initial term of three (3) years with up to (4) four additional one (1) year extension options exercisable by the Employer, subject to the approval of the I/F. Notwithstanding anything to the contrary in the New Lease, the Plan may at any time upon six (6) month prior written notice to the Employer terminate the New Lease and the Employer's occupancy of the Property, effective as of the date specified in such notice. Such date shall be at least six (6) months after the date such written notice is given to the Employer, but in no event extending the New Lease beyond the then current lease term.

The initial rental amount under the provisions of the New Lease will be \$16,448.42 a month (\$197,381 annually). In this regard, for the purpose of portfolio management and lease negotiation, Mr. Howard J. Layton (Mr. Layton), MAI, CCIM, CRE, (dba The Appraisal Source, L.L.C.) prepared an appraisal report estimating the "as is" market value of the Property, as of November 26, 2002, the date the Property was inspected. In the opinion of Mr. Layton, as of November 26, 2002, the fee simple "as is" market value of the Property was \$1,700,000. Based on the terms of the Old Lease, Mr. Layton further concluded that, as of November 26, 2002, the annual rental rate for the Property would be \$197,381 ( $\$3.75/\text{SF} \times 52,635 \text{ SF}$  in the Property) rounded to approximately \$16,448 a month. After examining a copy of the New Lease, Mr. Layton, represented in a letter dated July 28, 2003, that there is no value impact to the subject Property, as a result of the terms of the New Lease.

Mr. Layton is qualified to serve as an appraiser of real property in that he is a designated MAI member of the Appraisal Institute, a CCIM member of the Commercial Investment Real Estate Institute, a CRE member of the Counselors of Real Estate, and a certified general appraiser for the state of Utah. In addition, Mr. Layton has been engaged as a real estate appraiser since 1983.

Mr. Layton represents that he is independent in that he is not related to the Employer, the Owners of the Employer, or their principals. Further, Mr. Layton has no present or prospective interest in the Property and has no personal interest or bias with respect to the parties involved. Mr. Layton's compensation was not contingent on reporting a predetermined value or a requested minimum valuation.

The New Lease also provides for a periodic adjustment annually to the rental amount, so that the rent will be no less than the fair market rental value of the Property at the time of each adjustment. Such adjustments will be made by retaining a qualified, independent appraiser, selected by Wells Fargo. The cost of each such appraisal will be paid for by the Plan. It is represented that in no event shall the rental amount paid by the Employer be reduced below \$16,448 a month during the term of the New Lease.

The New Lease is a triple-net lease, such that the Employer is obligated to pay all taxes levied against the Property, all utility charges, the cost of installing any fixtures and equipment, all maintenance and repair costs, and premiums for both liability and casualty insurance for the benefit of the Plan as an additional named insured. All trade fixtures and equipment installed by the Employer remain the property of the Employer and may be removed by the Employer, who must repair any damage caused by such removal. In addition, the Employer has agreed to indemnify the Plan from all liabilities for personal injury or property damage occurring on the Property and not caused by the negligence of the Plan.

5. The Employer and sponsor of the Plan is engaged in the business of producing two (2) daily newspapers seven (7) days a week. It is represented that the Employer uses the Property to receive (via the railroad spur on the Property and by truck) newsprint and other supply items for printing newspapers and related functions and to store such supplies. It is represented that the Employer has consistently complied with the terms of both the Original Lease and the Old Lease in a timely manner.

6. The Owners of the Employer are each engaged in the newspaper publishing business. MediaNews owns 100 percent (100%) of Kearns-Tribune, LLC (Kearns-Tribune), which owns 50 percent (50%) of the stock of the Employer. MediaNews purchased its ownership in Kearns-Tribune MediaNews from AT&T Corporation. The remaining 50 percent (50%) of the

stock of the Employer is owned by Deseret. The Owners of the Employer have guaranteed performance of all conditions of the New Lease, including the payment of rent, by the Employer and have agreed to perform such conditions themselves, if the Employer is unable to do so. Wells Fargo has reviewed various information and financial data on MediaNews and Deseret and believes that each is creditworthy.

7. The Employer is a party in interest with respect to the Plan, pursuant to section 3(14)(C) of the Act. The Owners of the Employer are parties in interest with respect to the Plan, pursuant to section 3(14)(E) of the Act. The Plan and the Employer entered into the New Lease, effective August 1, 2003, on the condition that the proposed exemption is granted. In addition the Owners of the Employer have guaranteed the obligations of the Employer under such New Lease. Accordingly, the applicant has requested relief from section 406(a)(1)(A) through (D), 406(b)(1) and 406(b)(2) of the Act and 4975 of the Code by reason of 4975(c)(A)(A) through (E) for both transactions, the leasing of the Property by the Employer and the guarantee by the Owners of the Employer.

8. It is represented that the proposed transactions are administratively feasible in that the Property has been previously leased by the Employer from the Plan for an extended period of time, pursuant to PTE 85–37. Further, no modification of the Property would be required to accommodate the Employer who is the current tenant. In addition, the appraisal of the Property, the drafting of the New Lease, and the other administrative requirements necessary to continue the leasing of the Property to the Employer by the Plan have already been accomplished.

9. It is represented that there are sufficient safeguards in the proposed exemption for the protection of the Plan and its participants and beneficiaries. Wells Fargo has reviewed the terms of the New Lease and compared such terms with similar leases between unrelated parties. Further, Wells Fargo has agreed to monitor the New Lease and the conditions of the exemption on behalf of the Plan throughout the term of the New Lease and has authority to take all appropriate actions to safeguard the interests of the Plan.

It is represented that Wells Fargo has examined the Plan's overall investment portfolio, considered the Plan's liquidity and diversification requirements in light of the proposed leasing, and has determined that the proposed leasing complies with the Plan's investment

objectives and policies. In this regard, of the total assets of the Plan an estimated 4.361 percent (4.361%) will be involved in the leasing of the Property between the Plan and the Employer. By diversifying a small percentage of the total Plan assets into real estate, Wells Fargo asserts that it is taking steps to protect the Plan and its participants and beneficiaries from fluctuations in the stock and bond markets.

10. The exemption contains additional protections for the Plan and its participants and beneficiaries. In this regard, the exemption contains a condition that the Plan may at any time upon six (6) months prior written notice to the Employer terminate the New Lease and the Employer's occupancy of the Property. Further, the exemption contains a requirement that Wells Fargo, acting as the I/F on behalf of the Plan, place the Property on the market for sale or lease to an unrelated third party, within fifteen (15) calendar days of the date of the publication of the grant of this proposed exemption in the **Federal Register**, and proceed to sell or lease such Property to any such unrelated third party who presents a *bona fide* sale or lease offer which Wells Fargo determines to be prudent and in the best interest of the Plan and its participants and beneficiaries. It is represented that the Employer may build a new facility within the next two (2) years, and at the conclusion of the initial term of the New Lease, may not exercise an option to renew the lease on the Property. Accordingly, the conditions and requirements of the exemption assure that the Plan will have sufficient time to search for a replacement tenant or a purchaser, and will have the ability to terminate the New Lease within a reasonable period.

11. Wells Fargo has stated that it believes the proposed leasing is in the best interest of the Plan and its participants and beneficiaries. In this regard, according to Wells Fargo, the estimated average annual total rate of return to the Plan from the Property over the past seven (7) years, based on both unrealized gain and income has been 13.31 percent (13.31%). Wells Fargo believes that rental payments to the Plan will be maximized by continuing to lease the Property to the Employer at a fair market rental amount (adjusted annually). In this regard, Wells Fargo estimates an annual rate of return for the Property in the coming year of approximately 11.61 percent (11.61%), even assuming that there is no increase in the fair market value of the Property. Accordingly, Wells Fargo has

concluded that by leasing the Property to the Employer, the Plan will gain uninterrupted occupancy of the Property for an extended period of time and continued maintenance of the Property by a responsible and financially viable tenant. Further, the Plan will avoid additional expenses for modifications to the Property, and will avoid lost profits.

12. In summary, the applicant represents that the proposed transactions satisfy the criteria for exemption, as set forth in section 408(a) of the Act, because: (a) The Employer will pay the fair market rental rate, as determined by an independent, qualified appraiser; (b) the rental rate under the terms of the New Lease will be adjusted every year to reflect the fair rental value of the Property at the beginning of each such period, as determined by an independent, qualified appraiser, but will never be less than \$16,448 a month; (c) the New Lease does not require the Plan to pay any costs relating to the Property and requires the Employer to indemnify the Plan for certain liabilities relating to the Property; (d) the Employer will maintain both liability and casualty insurance, naming the Plan as an additional insured, with respect to the Property; (e) Wells Fargo, acting as the trustee and I/F with respect to the Plan, represents that the proposed transactions are in the best interests of the Plan and its participants and beneficiaries; (f) Wells Fargo will monitor the New Lease throughout its duration on behalf of the Plan, taking any appropriate actions to safeguard the interests of the Plan; (g) Wells Fargo will place the Property on the market for sale or lease to unrelated third parties, within fifteen (15) calendar days of the date of the publication of the grant of this proposed exemption in the **Federal Register**, and, subject to six (6) months prior written notice to the Employer, will proceed to sell or lease such Property to any such unrelated third party who presents a *bona fide* sale or lease offer which Wells Fargo determines to be prudent and in the best interest of the Plan and its participants and beneficiaries; and (h) the Plan may at any time upon six (6) months prior written notice to the Employer terminate the New Lease and the Employer's occupancy of the Property.

**FOR FURTHER INFORMATION CONTACT:**

Angelena C. Le Blanc, of the Department, telephone (202) 693-8540. (This is not a toll-free number.)

*General Information*

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 2nd day of September, 2003.

**Ivan Strasfeld,**

*Director of Exemption Determinations,  
Employee Benefits Security Administration,  
Department of Labor.*

[FR Doc. 03-22622 Filed 9-4-04; 8:45 am]

**BILLING CODE 4510-29-P**

**DEPARTMENT OF LABOR****Employment Standards  
Administration; Wage and Hour  
Division****Minimum Wages for Federal and  
Federally Assisted Construction;  
General Wage Determination Decisions**

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain on expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used

in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determination Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3014, Washington, DC 20210.

**Modification to General Wage  
Determination Decisions**

The number of the decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

*Volume I*

None

*Volume II*

None

*Volume III*

None

*Volume IV*

None

*Volume V*

None

*Volume VI*

None

*Volume VII*

None

**General Wage Determination  
Publication**

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be

found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at <http://www.access.gpo.gov/davisbacon>. They are also available electronically by subscription to the Davis-Bacon Online Service (<http://davisbacon.fedworld.gov>) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1-800-363-2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive help desk support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 28th day of August, 2003.

**Carl Poleskey,***Chief, Branch of Construction Wage  
Determinations.*

[FR Doc. 03-22503 Filed 9-4-03; 8:45 am]

BILLING CODE 4510-27-M

**NUCLEAR REGULATORY  
COMMISSION**

[Docket No. 50-390]

**License No. NPF-90, Tennessee Valley  
Authority Withdrawal of Request for  
Action Under 10 CFR 2.206**

Notice is hereby given that by letter dated August 5, 2003, Mr. David Lochbaum (petitioner), on behalf of the Union of Concerned Scientists (UCS), has withdrawn his May 30, 2003, request that the NRC take action with regard to Watts Bar Nuclear Plant. The

petitioner had requested that the Tennessee Valley Authority (TVA), the licensee for Watts Bar, be required to provide specific information relating to possible corrosion of the reactor coolant pressure boundary at Watts Bar due to defects in the stainless steel cladding applied to the interior surface of the carbon steel reactor pressure vessel to provide corrosion resistance against the borated water used as reactor coolant. The petitioner had also requested that the NRC (a) provide UCS with copies of all correspondence sent to TVA regarding this petition and the subject cladding defects at Watts Bar, (b) provide UCS with advance notice of all NRC public meetings with TVA regarding this petition and the subject cladding defects, (c) provide UCS with an opportunity to participate in all relevant phone calls between NRC staff and TVA regarding this petition and the subject cladding defects at Watts Bar, and (d) provide UCS with copies of all correspondence sent to Members of Congress and/or industry organizations (e.g., the Nuclear Energy Institute, the Electric Power Research Institute, the Institute for Nuclear Power Operations).

As the basis for this withdrawal, the petitioner states that the UCS has reviewed the response provided by the licensee and finds it fully responsive so that the Demand for Information is no longer necessary.

Notice of the receipt of the request for action was published in the **Federal Register** on July 9, 2003 (68 FR 41022). Copies of the licensee's response and the withdrawal letter are available for inspection at the Commission's Public Document Room (PDR) at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to [pdrc@nrc.gov](mailto:pdrc@nrc.gov).

Dated at Rockville, Maryland, this 28th day of August 2003.

For the Nuclear Regulatory Commission.

**R. William Borchardt,**

*Office of Nuclear Reactor Regulation.*

[FR Doc. 03-22610 Filed 9-4-03; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-285]

### Omaha Public Power District, Fort Calhoun Station, Unit 1, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations (10 CFR) part 20, section 20.1003 for Facility Operating License No. DPR-40, issued to Omaha Public Power District (OPPD/the licensee), for operation of the Fort Calhoun Station, Unit No. 1 (FCS), located in Washington County, Nebraska. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

#### Environmental Assessment

##### Identification of the Proposed Action

The proposed action would provide an exemption from the 10 CFR 20.1003 definition of total effective dose equivalent (TEDE), which is the sum of the deep-dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures). The proposed exemption would change the definition of TEDE to mean the sum of the effective dose equivalent or the deep-dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures). The staff has determined that the new method for calculating TEDE, under certain conditions, is a more accurate means of estimating worker radiation exposure.

The proposed action is in accordance with the licensee's application dated January 8, 2003.

##### The Need for the Proposed Action

The proposed action is needed because the current method of calculating TEDE, under certain conditions, can significantly overestimate the dose received.

##### Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that revising the methodology for calculating the dose received by individuals will not have any significant environmental impacts.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there

is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

##### Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

##### Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the FCS dated August 1972.

##### Agencies and Persons Consulted

On August 8, 2003, the staff consulted with the Nebraska State official, Julia Schmitt of the Nebraska Consumer Health Services Agency, regarding the environmental impact of the proposed action. The State official had no comments.

##### Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 8, 2003. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public

Electronic Reading Room on the internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 28th day of August, 2003.

For the Nuclear Regulatory Commission.

**Stephen Dembek,**

Chief, Section 2, Project Directorate IV,  
Division of Licensing Project Management,  
Office of Nuclear Reactor Regulation.

[FR Doc. 03-22609 Filed 9-4-03; 8:45 am]

BILLING CODE 7590-01-P

## POSTAL RATE COMMISSION

### Briefing on Data System Changes

**AGENCY:** Postal Rate Commission.

**ACTION:** Notice of public briefing.

**SUMMARY:** The United States Postal Service will present a briefing on September 17, 2003 at 10 a.m. in the Postal Rate Commission's hearing room on the proposed merger of two major data reporting systems. The systems affected by the merger are the Revenue, Pieces and Weight (RPW) system and the Origin Destination Information System (ODIS). The briefing is open to the public.

**DATES:** September 17, 2003, at 10 a.m.

**ADDRESSES:** Postal Rate Commission (hearing room), 1333 H Street NW., Washington, DC 20268-0001, Suite 300.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, 202-789-6818.

**Steven W. Williams,**  
Secretary.

[FR Doc. 03-22668 Filed 9-4-03; 8:45 am]

BILLING CODE 7710-FW-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-26171]

### Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

August 29, 2003.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of August, 2003. A copy of each application may be obtained for a fee at the SEC's Public

Reference Branch, 450 Fifth St., NW., Washington, DC 20549-0102 (tel. 202-942-8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 23, 2003, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549-0609. For Further Information Contact: Diane L. Titus at (202) 942-0564, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW, Washington, DC 20549-0504.

### Credit Suisse Strategic Value Fund, Inc.

File No. 811-7515]

**Summary:** Applicant seeks an order declaring that it has ceased to be an investment company. On June 6, 2003, applicant transferred its assets to Credit Suisse Large Cap Value Fund, a series of Credit Suisse Capital Funds, based on net asset value. Expenses of \$135,000 incurred in connection with the reorganization were paid by Credit Suisse Asset Management, LLC, applicant's investment adviser and/or its affiliates.

**Filing Date:** The application was filed on August 1, 2003.

**Applicant's Address:** 466 Lexington Ave., New York, NY 10017.

### PIC Balanced Portfolio

[File No. 811-6497]

**Summary:** Applicant seeks an order declaring that it has ceased to be an investment company. On April 29, 2003, applicant made a liquidating distribution to its shareholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

**Filing Date:** The application was filed on July 25, 2003.

**Applicant's Address:** 300 N. Lake Ave., Pasadena, CA 91101.

### MW Capital Management Funds

[File No. 811-10535]

**Summary:** Applicant seeks an order declaring that it has ceased to be an

investment company. On April 30, 2003, applicant made a liquidating distribution to its shareholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

**Filing Date:** The application was filed on July 23, 2003.

**Applicant's Address:** 610 Newport Center Dr., Suite 1000, Newport Beach, CA 92660.

### DEVCAP Shared Return Fund

[File No. 811-9070]

**Summary:** Applicant seeks an order declaring that it has ceased to be an investment company. On June 30, 2003, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of \$35,870 incurred in connection with the liquidation were paid by applicant.

**Filing Date:** The application was filed on July 25, 2003.

**Applicant's Address:** 209 West Fayette St., Baltimore, MD 21201.

### Mercury Large Cap Series Funds, Inc.

[File No. 811-9697]

**Summary:** Applicant seeks an order declaring that it has ceased to be an investment company. On April 28, 2003, applicant's three series transferred their assets to corresponding series of Merrill Lynch Large Cap Series Funds, Inc., based on net asset value. Expenses of approximately \$615,151 incurred in connection with the reorganization were paid by Fund Asset Management, Inc., applicant's investment adviser.

**Filing Date:** The application was filed on July 23, 2003.

**Applicant's Address:** 800 Scudders Mill Rd., Plainsboro, NJ 08536.

### Khan Funds

[File No. 811-7829]

**Summary:** Applicant seeks an order declaring that it has ceased to be an investment company. By June 15, 2003, all shareholders of applicant had redeemed their shares at net asset value. Expenses of \$580 incurred in connection with the liquidation were paid by Khan Investment Inc., applicant's investment adviser.

**Filing Dates:** The application was filed on June 11, 2003, and amended on July 14, 2003 and August 20, 2003.

**Applicant's Address:** 714 FM 1960 West #201, Houston, TX 77090.

### United Services Insurance Funds

[File No. 811-8766]

**Summary:** Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its

securities and does not propose to make a public offering or engage in business of any kind.

*Filing Dates:* The application was filed on June 9, 2003, and amended on July 24, 2003.

*Applicant's Address:* 7900 Callaghan Rd., San Antonio, TX 78229.

**AFAC Equity, L.P. (formerly 52nd Street Associates, L.P.)**

[File No. 811-10277]

*Summary:* Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering. Applicant has one limited partner and will continue to operate in reliance on section 3(c)(1).

*Filing Dates:* The application was filed on June 30, 2003, and amended on August 8, 2003.

*Applicant's Address:* c/o MIO Partners, Inc. (f/k/a Paul Harris Management, Inc.), 55 East 52nd St., New York, NY 10022.

**CMG Investors Trust**

[File No. 811-10615]

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On June 19, 2003, applicant made a liquidating distribution to its sole shareholder, based on net asset value. Expenses of approximately \$1,400 incurred in connection with the liquidation were paid by applicant, Capital Management Group Advisors, LLC, applicant's investment adviser, and Cadre Financial Services, Inc., applicant's sub-administrator.

*Filing Dates:* The application was filed on July 2, 2003, and amended on August 11, 2003.

*Applicant's Address:* Cadre Financial Services, Inc., 905 Marconi Ave., Ronkonkoma, NY 11779.

**Berger Institutional Products Trust**

[File No. 811-7367]

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. Applicant's board of directors approved the merger of three of Applicant's series and the liquidation of its remaining series on November 26, 2002. Shareholders of the merged series approved the mergers into the Janus Aspen Series on March 7, 2003, and the mergers took place on March 24, 2003. The liquidation and distribution of the assets of the remaining series occurred on March 31, 2003. Janus Capital Management LLC and Berger Financial Group LLC paid

for the expenses of the mergers and liquidation. Applicant has no remaining assets and no outstanding debts or liabilities.

*Filing Dates:* The application was filed on May 28, 2003, and amended on July 31, 2003.

*Applicant's Address:* 210 University Blvd., Suite 800, Denver, CO 80206.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-22598 Filed 9-4-03; 8:45 am]

**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**Sunshine Act Meetings**

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of September 8, 2003:

Closed Meetings will be held on Tuesday, September 9, 2003, at 2 p.m. and Wednesday, September 10, 2003, at 11 a.m., and Open Meetings will be held on Wednesday, September 10, 2003, at 10 a.m. and Thursday, September 11, 2003, at 10 a.m.

Commissioner Atkins, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B) and (10) and 17 CFR 200.402(a)(5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the Closed Meetings

The subject matter of the Closed Meeting scheduled for Tuesday, September 9, 2003, will be:

- Institution and settlement of administrative proceedings of an enforcement nature;
- Institution and settlement of injunctive actions;
- Formal orders of investigation; and
- Adjudicatory matter.

The subject matter for the Open Meeting scheduled for Wednesday, September 10, 2003 will be:

1. The Commission will hear oral argument on an appeal by the Barr Financial Group, Inc. ("BFG"), an investment adviser, and Alfred E. Barr ("Barr"), BFG's president, from the decision of an administrative law judge.

The law judge found that:

a. Respondents violated section 207 of the Investment Advisers Act of 1940 ("Advisers Act") by making untrue statements of material fact in Forms ADV and ADV amendments filed by BFG during 1997 and 1998. Respondents' statements concerned the amount of assets BFG had under management and Barr's academic credentials;

b. Respondents were permanently enjoined in 1999 from violating Advisers Act section 204 and "regulations thereunder governing the conduct of investment advisers under Rule 204-2 of the Advisers Act."

The law judge ordered both respondents to cease and desist from committing or causing any violations or future violations of Advisers Act sections 204 and 207, barred Barr from associating with any investment adviser, and revoked BFG's registration as an investment adviser.

Among the issues likely to be argued are:

- a. Whether the evidence supports the allegations;
- b. Whether and to what extent sanctions should be imposed in the public interest.

For further information, please contact the Office of the Secretary at (202) 942-7070.

2. The Commission will hear oral argument on an appeal by the Division of Enforcement from the decision of an administrative law judge.

The law judge found that the Division of Enforcement failed to prove that Jeffrey M. Steinberg and John Geron, ("the Respondents"), certified public accountants and former partners of accounting firm Arthur Andersen & Co., L.L.P., caused violations by Spectrum Information Technologies, Inc. ("Spectrum") of section 13(a) of the Securities Exchange Act of 1934 and Rules 13a-13 and 12b-20 thereunder ("the reporting provisions"), and the law judge dismissed the proceedings against the Respondents. The law judge concluded that the Respondents' accounting advice to Spectrum was consistent with generally accepted accounting principles ("GAAP"). The law judge determined also that Spectrum's quarterly reports filed with the Commission on Forms 10-Q for the periods ended June 30, 1993, and September 30, 1993, the reports at issue,

adequately disclosed certain licensing transactions.

The Division has requested that the Commission reverse the law judge's findings of fact and conclusions of law and his dismissal of all charges, and issue cease-and-desist orders against the Respondents.

Among the issues likely to be argued are:

- a. Whether Spectrum's accounting treatment was consistent with GAAP;
- b. Whether the Respondents acted negligently;
- c. Whether the Respondents were "a cause" of Spectrum's violations of the reporting provisions within the meaning of Exchange Act section 21C; and
- d. Whether issuance of cease-and-desist orders against the Respondents is in the public interest.

For further information, please contact the Office of the Secretary at (202) 942-7070.

The subject matter for the Closed Meeting scheduled for Wednesday, September 10, 2003 will be: Post argument discussion.

The subject matter for the Open Meeting scheduled for Thursday, September 11, 2003, will be:

1. The Commission will consider whether to adopt amendments to rule 206(4)-2, the custody rule under the Investment Advisers Act of 1940, to enhance the protections afforded to advisory clients' assets, harmonize the rule with current custodial practices, and clarify circumstances under which advisers have custody of client assets.

For further information, please contact Vivien Liu at (202) 942-0664.

2. The Commission will consider whether to propose a rule to exempt qualified foreign banks from the insider lending prohibition of the Securities Exchange Act of 1934 section 13(k), as added by section 402 of the Sarbanes-Oxley Act. The proposed rule would exempt foreign banks that meet specified criteria similar to those that qualify domestic banks for the exemption under section 13(k). The Commission will also consider whether to propose an amendment to Form 20-F that would require a foreign bank issuer to provide the same disclosure regarding problematic loans to insiders as that required for domestic banks under Regulation S-K.

For further information contact Elliot Staffin at (202) 942-2990.

3. The Commission will also consider whether to propose an amendment to Form F-6 that would add an eligibility requirement making the form unavailable to register under the Securities Act of 1933 depository shares

evidenced by American depository receipts if the foreign issuer has separately listed the deposited securities on a registered national securities exchange or automated inter-dealer quotation system of a national securities association.

For further information please contact Michael Coco at (202) 942-2990.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact the Office of the Secretary at (202) 942-7070.

Dated: September 3, 2003.

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 03-22771 Filed 9-3-03; 12:52 pm]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48416; File No. SR-CBOE-2003-14]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Incorporated Relating to Options on a Reduced Value NYSE Composite Index

August 27, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 25, 2003, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, the Exchange has prepared. On August 6, 2003, the CBOE filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE is proposing to trade options on the reduced-value, revised NYSE Composite Index ("Reduced Value NYSE Composite Index" or

"Reduced Value Index") based on levels imposed by the New York Stock Exchange ("NYSE") itself. Options traded on the "old" NYSE Composite Index will no longer trade on the CBOE. The text of the proposed rule change is available at the Office of the Secretary, the CBOE, 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 CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

###### Index Design

Currently, the CBOE lists and trades European-style, cash-settled options on the NYSE Composite Index. The NYSE Composite Index, prior to January 9, 2003, was a full-market capitalization-weighted index comprised of all of the securities that are listed on the NYSE.<sup>4</sup> Recently, the NYSE announced that, as of January 9, 2003, it would replace the NYSE Composite Index ("Old Index") with a new version that features a revised methodology and composition. The revised index contains 700 fewer components and will carry a new value around 5,000, as opposed to the year-end closing level of around 500, as of December 31, 2002.

The revised index will continue to measure the performance of all NYSE-listed common stock, American Depositary Receipts ("ADR"), tracking stocks, and real estate investment trusts ("REIT"), but will exclude closed-end investment companies, exchange traded funds ("ETF"), and derivatives. Additionally, the revised NYSE Composite Index ("Revised Index") will use a float-adjusted market capitalization weighting method instead of the previous full-market capitalization weighting.<sup>5</sup> Float-adjusted

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See letter from Jim Flynn, Attorney II, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission dated August 5, 2003 ("Amendment No. 1").

<sup>4</sup> Excluding preferred stock issues.

<sup>5</sup> CBOE has indicated that according to the NYSE, these revisions will create an index that is more representative of the investable equity securities and those securities that are better suited to track future changes in the U.S. stock market.

market capitalization, as opposed to full market capitalization, is used to reflect only the number of shares that are actually available to investors.

In calculating the market capitalization of each underlying issuer, the Float-adjusted market capitalization methodology reduces each underlying issuer's market share by the market capitalization value represented by

those shares held through block ownership. The following are considered block ownership for the purposes of float-adjusted market capitalization: (1) Cross ownership—shares that are owned by other companies; (2) government ownership—shares that are owned by governments or their agencies; (3) private ownership—shares that closely held by

individuals, families or charitable trusts and foundations; and, (4) restricted shares—shares that are not allowed to be traded during a certain period of time.

The following chart illustrates the pertinent differences between the old index methodology and the Revised Index methodology.

Security class eligible for inclusion	Old methodology	New methodology
Common Stocks .....	Yes .....	Yes.
ADRs .....	Yes .....	Yes.
Tracking Stocks .....	Yes .....	Yes.
REITs .....	Yes .....	Yes.
Closed-end funds .....	Yes .....	No.
ETFs .....	Yes .....	No.
Preferred stocks .....	No .....	No.
Derivatives .....	Yes .....	No.
Shares of beneficial interest .....	Yes .....	No.
Trust units .....	Yes .....	No.
Limited partnerships .....	Yes .....	No.
Weighting .....	Full market capitalization .....	Float-adjusted market cap.
Base Date .....	December 31, 1965 .....	December 31, 2002.
Base Value .....	50 .....	5,000.
Maintained/Calculated by .....	Securities Industry Automation Corp. (SIAC) .....	Dow Jones Indexes.
Reconstitution/Rebalancing .....	Ongoing .....	Ongoing.
Share Updates (<10%) .....	Daily .....	Quarterly.
Available Indexes .....	Price return index .....	Price and total return indexes.

*Index Calculation*

The NYSE has calculated the Revised Index to a base value of 5,000 as of December 31, 2002. Due to the extremely large contract size (\$500,000) that would result from pairing the standard contract multiplier (\$100) with such a high underlying index level, the CBOE proposes to list and trade options based on one-tenth (1/10th) of the value of the Revised Index. Options on the Reduced Value NYSE Composite will provide investors with product offerings consistent with those available for the Old Index.

All option series on the old NYSE Composite Index have expired and no new series in old NYSE Composite Index options have been added or will be added. Options on the Reduced Value Index will trade under a new root ticker symbol.

In order to avoid confusion, the CBOE will notify market participants of both the Revised Index and the details of the new options series that the CBOE will list on the Reduced-Value Index. In its notification, the CBOE will include a discussion of the float adjusted market capitalization method. The Reduced-Value Index levels will be disseminated throughout the trading day at 15-second intervals through OPRA.

*Index Option Trading*

The Exchange believes that listing options on the Reduced Value Index will attract a greater source of customer business than if options were based on the full value of the Revised Index. The Exchange also believes that options on the Reduced Value Index will provide an opportunity for investors to hedge, or speculate on, the market risk associated with the stocks comprising this broad-based Index. Further, by reducing the value of the Revised Index, such investors will be able to utilize this trading vehicle, while extending a smaller outlay of capital. The CBOE believes that this should attract additional investors, and, in turn, create a more active and liquid trading environment.

In addition to regular index options, the Exchange has the authority to list long-term index option series ("LEAPS®"), as well as reduced-value LEAPS,<sup>6</sup> in accordance with CBOE Rule 24.9(b)(1). The CBOE's rules specifically permitted the listing of reduced-value LEAPS on the "old" NYSE Composite Index.<sup>7</sup> The Exchange similarly intends

<sup>6</sup> CBOE Rule 24.1(g) provides that the current index value for a reduced-value LEAP is one-tenth ( 1/10th) of the current index value of the related index option. The "closing index value" shall be the last index value reported on a business day.

<sup>7</sup> See CBOE Rule 24.9(b)(2) (Reduced-Value LEAPS).

to allow for the listing of LEAPS or reduced-value LEAPS on the Reduced Value Index in order to provide investors with product offerings consistent with those that were available for the "old" NYSE Composite index. The Exchange will make a timely determination, based on contemporaneous market factors, as to when and if either LEAPS or reduced-value LEAPS shall be listed. In deciding whether to list LEAPS or reduced-value LEAPS, the Exchange will consider which type of series provides the most appropriate vehicle for customers to use as a long-term hedge.

The option settlement value on the Reduced Value Index will be based on the opening prices of the component securities as reported by the NYSE. For options on the Reduced Value Index, strike prices will be set to bracket the Reduced Value Index in 2.5-point increments for strikes below \$200 and 5-point increments above \$200, as will be reflected in CBOE Rule 24.9. The trading hours for options on the Reduced Value Index will be from 8:30 a.m. to 3:15 p.m. Chicago time.

Options shall be European-style exercise and A.M.-settled, as currently reflected in CBOE Rule 24.9(a)(3), and position limits will remain the same for options traded on the Reduced Value Index as those established on the old Index; 45,000 contracts on either side of

the market. This is consistent with CBOE Rule 24.4.

For purposes of calculating customer margin requirements, the Revised Index, just like the Old Index, is considered a broad-based index for purposes of calculating customer margin requirements.

#### *Surveillance*

The Exchange represents that its surveillance procedures are adequate to monitor the trading in options and LEAPS on the Reduced Value Index. The CBOE does not believe that there are any material differences in the manner in which options on the Reduced Value Index will trade. The Exchange also believes that reducing the value of the Revised Index, as well as the other changes to the index's design and calculation, does not raise any new concerns about manipulation or adverse market impact. As a result, the Exchange believes that the existing surveillance procedures as they applied to the Old Index options should be adequate to detect or deter manipulation.<sup>8</sup> The CBOE also shall provide to members a formal notice which will describe the Revised Index, the Reduced Value Index, the new options root ticker symbol, and the options series to be listed on the Reduced Value Index.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</sup> in that it is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The CBOE does not believe that the proposed rule change will impose any burden on competition.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal**

**Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve such proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR-CBOE-2003-14 and should be submitted by September 26, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-22599 Filed 9-4-03; 8:45 am]

**BILLING CODE 8010-01-P**

#### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-48242; File No. SR-NASD-2003-92]

#### **Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval To a Proposed Rule Change To Adopt NASD Rule 2370 To Govern Certain Lending Arrangements Between Registered Persons and Customers**

August 29, 2003.

#### **I. Introduction**

On June 11, 2003, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt NASD Rule 2370 which would prohibit registered persons from borrowing money from or lending money to a customer unless the member has written procedures allowing such lending arrangements consistent with the rule, the loan falls within one of five prescribed permissible types of lending arrangements, and the member pre-approves the loan in writing. The proposed rule change was published for comment in the **Federal Register** on July 2, 2003.<sup>3</sup> The Commission received two comment letters on the proposal.<sup>4</sup> In addition, NASD submitted a response to comments.<sup>5</sup> This order approves the proposed rule change.

#### **II. Description of the Proposed Rule Change**

Under the proposal, registered persons would be prohibited from borrowing money from or lending money to a customer unless the member has written procedures allowing such lending arrangements consistent with the proposal, the loan falls within one of five permissible types of lending arrangements, and the member pre-

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 48093 (June 26, 2003), 68 FR 39608.

<sup>4</sup> See letters to Jonathan G. Katz, Secretary, Commission, from Christine A. Bruenn, President, Maine Securities Administrator, North American Securities Administrators Association, Inc. ("NASAA"), dated July 23, 2003, ("NASAA Letter"); and Michael C. Herndon, Director, Public and Governmental Affairs, Certified Financial Planner Board of Standards, Inc. ("CFP"), dated July 23, 2003 ("CFP Letter").

<sup>5</sup> See letter to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, from Shirley H. Weiss, Associate General Counsel, NASD, dated July 29, 2003 ("NASD Letter").

<sup>8</sup> Telephone conversation between Jim Flynn, Attorney II, CBOE, and Ian K. Patel, Attorney, Division of Market Regulation, Commission on August 26, 2003.

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

approves the loan in writing. The five types of permissible lending arrangements are: (1) The customer is a member of the registered person's immediate family (as defined in the proposed rule); (2) the customer is in the business of lending money; (3) the customer and the registered person are both registered persons of the same firm; (4) the lending arrangements is based on a personal relationship outside of the broker-customer relationship; or (5) the lending arrangement is based on a business relationship outside of the broker-customer relationship.

### III. Summary of Comments

As noted above, the Commission received two comment letters on the proposed rule change.<sup>6</sup> CFP supported the proposal because it would more closely regulate lending arrangements between registered persons and customers.<sup>7</sup> NASAA did not explicitly support or oppose the proposed rule change. However, NASAA endorsed further restrictions on loans between registered persons and customers.<sup>8</sup> According to NASAA, lending arrangements that occur outside standard commercial channels can be problematic. Further, the potential for conflict is particularly great when business associates enter into loan arrangements outside the normal business relationship. NASAA referred to its Statement of Policy that prohibits "the practice of lending or borrowing money or securities from a customer."<sup>9</sup>

In its response letter, NASD stated that proposed NASD Rule 2370 would give its members the ability to prohibit all lending arrangements between their registered persons and customers.<sup>10</sup> However, if permitted, proposed NASD Rule 2370 would establish strict conditions under which such lending arrangements could take place. Firms would be required to have written procedures in place evidencing their customer loan policy and loans would be limited to five permissible types of arrangements, which NASD staff identified as arrangements that might not be problematic because of the relationship between the registered person and the customer. In addition, according to NASD, proposed NASD Rule 2370 provides additional safeguards by establishing a notice and approval requirement. Thus, under proposed NASD Rule 2370, registered persons would be required to give their

firms prior notice of a loan, and firms would be required to pre-approve each loan in writing. These requirements would enable a member, to the extent it permitted these loan arrangements, to assess the nature of each proposed arrangement and decide whether to approve it. They also would enhance NASD's ability to review these arrangements during the examination process.

### IV. Discussion

After careful consideration of the proposed rule change, the comment letters, and NASD's response, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association<sup>11</sup> and, in particular, the requirements of Section 15A of the Act<sup>12</sup> and the rules and regulations thereunder. Specifically, the Commission believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act,<sup>13</sup> which, among other things, requires that NASD's rules 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.

While the Commission appreciates the concern raised by NASAA, the Commission believes that NASD has proposed sufficient safeguards that would enable members to proscribe customer-broker loans and to monitor and control lending arrangements, if permitted, through the notice and approval process. To the extent that a member decides to permit lending arrangements with customers in the limited circumstances allowed by the proposed rule, the rule would also require members to have written procedures to monitor such arrangements. As a result, the Commission also believes that the proposed rule change should enhance NASD's ability to monitor loans, when permitted, between registered persons and their customers.

The Commission notes that the safeguards provided under the rule, including bringing disciplinary actions for violations of the rule, are in addition to the general powers that NASD has to bring a disciplinary action against a registered person who has entered into an unethical lending arrangement with

a customer under NASD Rule 2110. For example, the notice requirement would place an affirmative obligation on registered persons that could be separately charged in a disciplinary action if not followed. Lastly, the Commission notes that this proposal has no effect on the application of Regulation T to such lending arrangements.<sup>14</sup>

### V. Conclusion

For the foregoing reasons, the Commission finds that the proposal is consistent with the requirements of the Act and rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>15</sup> that the proposed rule change (File No. SR-NASD-2003-92) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 03-22656 Filed 9-4-03; 8:45 am]

**BILLING CODE 8010-01-M**

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## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104-13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection packages that may be included in this notice are for new information collections, revisions to OMB-approved information collections and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed

<sup>6</sup> See *supra* note 4.

<sup>7</sup> See CFP Letter.

<sup>8</sup> See NASAA Letter.

<sup>9</sup> *Id.*

<sup>10</sup> See NASD Letter.

<sup>11</sup> In approving this proposed rule change, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>12</sup> 15 U.S.C. 78o-3.

<sup>13</sup> 15 U.S.C. 78o-3(b)(6).

<sup>14</sup> See 12 CFR 220.

<sup>15</sup> 15 U.S.C. 78s(b)(2).

<sup>16</sup> 17 CFR 200.30-3(a)(12)

and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10235, 725 17th St., NW., Washington, DC 20503, Fax: 202-395-6974;

(SSA)

Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1338 Annex, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410-965-6400.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410-965-0454 or by writing to the address listed above.

1. *Application for Lump Sum Death Payment—0960-0013—20 CFR 404.390-404.392—960-0013.* The information collected on form SSA-8 by the Social Security Administration is required to authorize payment of a lump-sum death benefit to a widow, widower, or children as defined in Section 202(i) of the Social Security Act. The respondents are widows, widowers or children who apply for a lump-sum death payment.

*Type of Request:* Extension of an OMB-approved information collection.  
*Number of respondents:* 43,850.  
*Frequency of response:* 1.  
*Average burden per response:* 10 minutes.

*Estimated annual burden:* 7,308 hrs.

2. *Student Statement Regarding School Attendance—20 CFR 404.351-.352, 404.367-.368—0960-0105.* The information collected on Form SSA-1372 is needed to determine whether children of an insured worker are eligible for benefits as a student. The

respondents are student claimants for Social Security benefits and their respective schools.

*Type of Request:* Extension of an OMB-approved information collection.  
*Number of respondents:* 200,000.  
*Number of Response:* 1.  
*Average burden per response:* 10 minutes.

*Estimated Annual Burden:* 33,333 hours.

3. *Annual Earning Test—Direct Mail Follow-up Program Notices—20 CFR 404.452-.455-0960-0369.* Social Security beneficiaries who are under full retirement age (FRA) are required to report their current year earnings estimate and the following year earnings estimate to ensure correct payment of Social Security benefits. Beneficiaries use one of the midyear mailer forms (SSA-L9778, L9779, and L9781) for this report. Beneficiaries who attain FRA are not subject to the annual earnings test. In the year of FRA, beneficiaries approaching retirement complete forms SSA-L9784 and L9785 which request earnings estimates for the period prior to the month of FRA. Respondents are beneficiaries who must update their current year estimate of earnings, give SSA an estimate of earnings for the following year, and an earnings estimate (in the year of FRA) for the period prior to the month of FRA.

*Type of Request:* Extension of an OMB-approved information collection.  
*Number of Respondents:* 225,000.  
*Frequency of Response:* 1.  
*Average Burden Per Response:* 10 minutes.

*Estimated Annual Burden:* 37,500 hours.

4. *Employment Relationship Questionnaire—20 CFR 404.1007—0960-0040.* SSA uses the information collected on Form SSA-7160 to determine whether the Social Security number-holder is self-employed or an employee. The respondents are

applicants for Social Security Benefits and/or employers.

*Type of Request:* Extension of an OMB-approved information collection.  
*Number of Respondents:* 47,500.  
*Frequency of Response:* 1.  
*Average Burden Per Response:* 25 minutes.

*Estimated Annual Burden:* 19,792 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410-965-0454, or by writing to the address listed above.

1. *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations—20 CFR 435-0960-0616.* These rules cover the basic administrative reporting and recordkeeping requirements for applicable recipients of grants and agreements. Because very specific requirements must be met, it is necessary that SSA collect significant information from the applicants and grantees to determine if they meet, or continue to meet, the conditions specified. The respondents are institutions of higher education, hospitals, and other non-profit organizations.

*Type of Request:* Extension of an OMB-approved information collection. SSA currently has a total of 17 grant recipients that are subject to the requirements of the proposed rule. The hourly burden as estimated for each of the reporting (Rpt) and recordkeeping (Rec-kp) requirements is explained below and reflected in the following table:

CFR section No.	Type	Number of respondents	Frequency of response	Average burden hours per response	Estimated annual burden hours
435.21 .....	Rec-kp .....	1	N/A .....	40	40
435.23 .....	Rec-kp .....	94	Quarterly (4) .....	1	376
435.25 .....	Rpt .....	14	Biannually (2) .....	4	112
435.33 .....	Rpt .....	1	Annually (1) .....	1	1
435.44 .....	Rpt .....	1	Annually (1) .....	2	2
435.51 .....	Rpt .....	150	Quarterly (4) .....	12	7200
435.53 .....	Rec-kp .....	150	Annually (1) .....	8	1200
435.81 .....	Rpt .....	1	Annually (1) .....	16	16
435.82 .....	Rpt .....	1	Annually (1) .....	8	8

*Total estimated annual burden:* 8,955 hours.

1. *Collection of SSI Overpayments from Special Benefits for Certain WWII Veterans; 20 CFR, Subpart E, 416.570 &*

*.572—0960-0653.* The information

collection requirement in 20 CFR 416.570 allows for an individual to request to withhold a title XVI overpayment from Title II/VIII benefits. The information collection requirement in 20 CFR 416.572 allows for an individual to elect a higher or lower rate of withholding for recovery of an SSI overpayment. The information collected will be used to determine the proper rate of withholding of benefits to recover program overpayments. The respondents are Title II or Title VIII beneficiaries who were overpaid title XVI benefits and who request a higher rate of recovery than specified in 20 CFR 416.571.

*Type of Request:* Extension of an OMB-approved information collection.  
*Number of Respondents:* 2,500.  
*Frequency of Response:* 1.  
*Average Burden Per Response:* 1 hour.  
*Estimated Annual Burden:* 2,500 hours.

2. *Medical or Psychological Consultant's Review of Childhood Disability Evaluation Form—20 CFR, Subpart J, 416.1040, .1043, .1045—0960—NEW.* Form SSA-536 is used by SSA medical or psychological consultants to document their review and assessment of the Childhood Disability Evaluation Form, SSA-538, prepared by State DDS employees. A childhood disability evaluation is required in each SSI childhood disability case. Therefore, the consultants must prepare an assessment form SSA-536 for each childhood disability case that is reviewed. The respondents are 256 SSA medical and psychological consultants.

*Type of Request:* Approval of an existing information collection.  
*Number of Responses:* 17,000.  
*Frequency of Response:* 1.  
*Average Burden Per Response:* 12 minutes.

*Estimated Annual Burden:* 3,400 hours.

3. *Requests for Self-Employment Information, Employee Information, Employer Information—20 CFR, Subpart A, 422.120—0960—0508.* SSA uses Forms SSA-L2765, SSA-L3365 and SSA-L4002 to request correct information when an employer, employee or self-employed person reports an individual's earnings without a Social Security Number (SSN) or with an incorrect name or SSN. The respondents are employers, employees or self-employed individuals who are requested to furnish additional identifying information.

*Type of Request:* Extension of an OMB-approved information collection.  
*Number of Respondents:* 3,000,000.  
*Frequency of Response:* 1.

*Average Burden Per Response:* 10 minutes.

*Estimated Annual Burden:* 500,000 hours.

4. *Function Report—Adult—20 CFR 404.1512 and 416.912—0960—NEW.* Form SSA-3373 records information about the disability applicant's impairment-related limitations and ability to function. It documents the types of information specified in SSA regulations and provides disability interviewers with a convenient means to record information about how the claimant's condition affects his or her ability to function. This information, together with medical evidence, forms the evidentiary basis upon which the initial disability process is founded. The respondents are title II and XVI benefits applicants.

*Type of Request:* New information collection.

*Number of Respondents:* 4,005,367.  
*Average Burden Per Response:* 30 minutes.

*Estimated Annual Burden:* 2,002,684.

5. *Application for Search of Census Records for Proof of Age—20 CFR 404.716—0960—0097.* The information collected on Form SSA-1535-U3 is required to provide the Census Bureau with sufficient identification information, which will allow an accurate search of census records to establish proof of age for an individual applying for Social Security benefits. It is used for individuals who must establish age as a factor for entitlement. The respondents are individuals applying for Social Security benefits who need to document their date of birth.

*Type of Request:* Extension of an OMB-approved information collection.

*Number of Respondents:* 18,000.

*Number of Response:* 1.

*Average Burden per Response:* 12 minutes.

*Estimated Average Burden:* 3,600.

6. *Representative Payee Report—Special Veterans Benefits Form—0960—0621.* SSA needs the information collected on form SSA-2001 to determine whether payments certified to the representative payee have been used properly and whether the representative payee demonstrates concern for the beneficiary's best interest. The form will be completed annually by representative payees receiving Special Veterans Benefit payments on behalf of beneficiaries who are outside of the United States. It will also be required when SSA has reason to believe a representative payee could be misusing the payments. The respondents are representative payees

for beneficiaries who are receiving Special Veterans Benefits.

*Type of Request:* Extension of an OMB-approved information collection.  
*Number of Respondents:* 100.

*Frequency of Response:* 1.

*Average Burden Per Response:* 10 minutes.

*Estimated Annual Burden:* 17 hours.

Dated: August 28, 2003.

**Elizabeth A. Davidson,**  
*Reports Clearance Officer, Social Security Administration.*

[FR Doc. 03-22579 Filed 9-4-03; 8:45 am]

**BILLING CODE 4191-02-P**

## DEPARTMENT OF STATE

### [Public Notice 4470]

#### Culturally Significant Objects Imported for Exhibition Determinations: "JFK and Art"

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the object to be included in the exhibition "JFK and Art," imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner. I also determine that the exhibition or display of the exhibit object at the Bruce Museum of Arts and Science, Greenwich, CT from on or about September 20, 2003 to on or about January 7, 2004 and the Norton Museum of Art, West Palm Beach, FL from on or about February 7, 2004 to on or about May 2, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit object, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, Department of State, (telephone: (202) 619-6981). The address is Department of State, SA-44,

301 4th Street, S.W., Room 700,  
Washington, DC 20547-0001.

Dated: August 26, 2003.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary for  
Educational and Cultural Affairs, Department  
of State.*

[FR Doc. 03-22637 Filed 9-4-03; 8:45 am]

BILLING CODE 4710-08-P

## DEPARTMENT OF STATE

[Public Notice 4468]

### Culturally Significant Objects Imported for Exhibition Determinations: "Prokofiev and his Contemporaries: The Impact of Soviet Culture"

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Prokofiev and his Contemporaries: The Impact of Soviet Culture," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the New York Public Library for the Performing Arts, New York, NY from on or about October 15, 2003 until on or about January 10, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact the Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619-6982). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: August 29, 2003.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary for  
Educational and Cultural Affairs, Department  
of State.*

[FR Doc. 03-22635 Filed 9-4-03; 8:45 am]

BILLING CODE 4710-08-P

## DEPARTMENT OF STATE

[Public Notice 4469]

### Culturally Significant Objects Imported for Exhibition Determinations: "The Age of Watteau, Chardin, and Fragonard: Masterpieces of French Genre Painting"

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "The Age of Watteau, Chardin, and Fragonard: Masterpieces of French Genre Painting," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the National Gallery of Art, Washington, DC, from on or about October 12, 2003, to on or about January 11, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619-6529). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: August 29, 2003.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary for  
Educational and Cultural Affairs, Department  
of State.*

[FR Doc. 03-22636 Filed 9-4-03; 8:45 am]

BILLING CODE 4710-08-P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Aviation Proceedings, Agreements Filed the Week Ending August 22, 2003

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

*Docket Number:* OST-2003-16011.

*Date Filed:* August 22, 2003.

*Parties:* Members of the International Air Transport Association.

*Subject:*

CTC COMP 0453 dated 22 August 2003

Resolution 010aa-TC2/12/23 Special Cargo

Amending Resolution,

Establishing Cargo Rates and Charges from Albania, Bosnia, and Herzegovina, Bulgaria, Croatia, Macedonia (FYROM), Romania Serbia and Montenegro, Slovenia in euro (EUR)

Intended effective dates: 1 October 2003, 1 November 2003, 1 January 2004.

**Andrea M. Jenkins,**

*Program Manager, Docket Operations,  
Federal Register Liaison.*

[FR Doc. 03-22563 Filed 9-4-03; 8:45 am]

BILLING CODE 4910-62-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Type Validation and Post-Type Validation Procedures

**AGENCY:** Federal Aviation Administration (DOT).

**ACTION:** Notice of availability and requests for public comment.

**SUMMARY:** This notice announces the availability of and requests comments on a proposed order. The proposed order establishes the type certification principles and responsibilities pertaining to imported and exported aircraft, aircraft engines and propellers.

**DATES:** Comments must identify the Order and arrive by October 3, 2003.

**ADDRESSES:** Send all comments on the proposed order to: Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, Room 815, 800 Independence Avenue, SW., Washington, DC 20591. ATTN: Gregory A. Edwards, AIR-110. Or, deliver comments to: Federal Aviation Administration, Room 815, 800

Independence Avenue, SW.,  
Washington, DC 20591.

**FOR FURTHER INFORMATION CONTACT:**

Gregory A. Edwards, Aerospace  
Engineer, Federal Aviation  
Administration, Aircraft Certification  
Service, Aircraft Engineering Division,  
Certification Procedures Branch, AIR-  
110, Room 815, 800 Independence  
Avenue, SW., Washington, DC 20591,  
Telephone (202) 267-9287, FAX (202)  
267-5340. E-mail:  
[greg.edwards@faa.gov](mailto:greg.edwards@faa.gov).

**SUPPLEMENTAL INFORMATION:**

**Comments Invited**

You may comment on the proposed order listed in this notice by sending written data, views, or arguments to the above listed address. You may also examine comments received on the proposed order, before and after the comment closing date, in Room 815, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. The Director of the Aircraft Certification Service will consider all communications received by the closing date before issuing the final order.

**Background**

This order addresses several type certification issues. It defines the principles guiding FAA certification personnel who certificate imported and exported aircraft, aircraft engines, and propellers. It also explains how to ensure the continued airworthiness of imported and exported products, and lists the duties of the importing authority, the exporting authority, and the applicant.

**How To Get Copies**

You may get a copy of the proposed order via the Internet at <http://www.faa.gov/certification/aircraft/8110-TVP.htm>, or by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on August 28, 2003.

**Susan J. M. Cabler,**

*Deputy Manager, Aircraft Engineering  
Division, Aircraft Certification Service.*

[FR Doc. 03-22566 Filed 9-4-03; 8:45 am]

**BILLING CODE 4910-13-M**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety  
Administration**

[Docket No. FMCSA-2003-15892]

**Qualification of Drivers; Exemption  
Applications; Vision**

**AGENCY:** Federal Motor Carrier Safety  
Administration (FMCSA), DOT.

**ACTION:** Notice of applications for  
exemption from the vision standard;  
request for comments.

**SUMMARY:** This notice publishes the FMCSA's receipt of applications from 30 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

**DATES:** Comments must be received on or before October 6, 2003.

**ADDRESSES:** You may submit comments identified by DOT DMS Docket Number FMCSA-2003-15268 by any of the following methods:

- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.
- Hand Delivery: 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.

• Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

**Instructions:** All submissions must include the agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

**Docket:** For access to the docket to read background documents or

comments received, go to <http://dms.dot.gov> at any time or to 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.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sandra Zywockarte, Office of Bus and Truck Standards and Operations, (202) 366-2987, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** Public Participation: The DMS is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help guidelines under the "help" section of the DMS Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

**Privacy Act:** Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

**Background**

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the agency to renew exemptions at the end of the 2-year period. The 30 individuals listed in this notice have recently requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety.

**Qualifications of Applicants**

*1. Lauren C. Allen*

Mr. Allen, age 58, has amblyopia in his right eye. His visual acuity in the right eye is 20/150 and in the left, 20/

30. Following an examination in 2003, his optometrist certified, "In my professional opinion, this patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle under any conditions." Mr. Allen reported that he has driven tractor-trailer combinations for 32 years, accumulating 1.6 million miles. He holds a Class A commercial driver's license (CDL) from New York. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

#### 2. Tracey A. Ammons

Mr. Ammons, 46, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/100. Following an examination in 2003, his optometrist certified, "His vision is sufficient to operate a commercial vehicle." Mr. Ammons reported that he has driven tractor-trailer combinations for 13 years, accumulating 955,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows one accident and no convictions for moving violations in a CMV. According to the police report, another driver slid through a stop sign due to icy road conditions and struck Mr. Ammons' vehicle. Neither driver was cited.

#### 3. Randy B. Combs

Mr. Combs, 58, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/15 and in the left, 20/100. His optometrist examined him in 2003 and stated, "In my opinion, Mr. Combs has more than adequate vision for safely operating a commercial vehicle." Mr. Combs submitted that he has driven tractor-trailer combinations for 19 years, accumulating 1.4 million miles. He holds a Class DA CDL from Kentucky. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

#### 4. William J. Corder

Mr. Corder, 38, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/400 and in the left, 20/20. Following an examination in 2002, his ophthalmologist certified, "Visual fields overall and vision in the left eye in my opinion are sufficient to operate a commercial vehicle." Mr. Corder reported that he has driven straight trucks for 4 years, accumulating 320,000 miles, and tractor-trailer combinations for 10 years, accumulating 1.0 million miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows one accident and

no convictions for moving violations in a CMV. According to the police report, the accident occurred when Mr. Corder's vehicle struck a deer. He was not cited.

#### 5. Robert L. Cross, Jr.

Mr. Cross, 41, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/300 and in the left, 20/20. Following an examination in 2003, his optometrist certified, "In my opinion, he should have no problems operating a commercial vehicle taking into consideration his current visual condition." Mr. Cross reported that he has driven straight trucks for 15 years, accumulating 67,000 miles. He holds a Class F driver's license from Missouri. His driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

#### 6. William P. Davis

Mr. Davis, 56, has a retinal scar in his left eye due to a childhood infection. His best-corrected visual acuity in the right eye is 20/20, and in the left, hand motions. His optometrist examined him in 2002 and stated, "Paul's vision is more than adequate for any driving challenge that he may have, private or commercial." Mr. Davis submitted that he has driven straight trucks for 38 years, accumulating 2.8 million miles. He holds a Class A CDL from Georgia. His driving record for the last 3 years shows no accidents and one conviction for a moving violation—speeding—in a CMV. He exceeded the speed limit by 9 mph.

#### 7. Dennie R. Ferguson

Mr. Ferguson, 48, lost his right eye due to an injury at age 13. His best-corrected visual acuity in the left eye is 20/20. Following an examination in 2003, his optometrist certified, "I feel that Mr. Ferguson's vision is sufficient to perform the driving tasks required to operate a commercial vehicle." Mr. Ferguson reported that he has driven tractor-trailer combinations for 17 years, accumulating 1.5 million miles. He holds a Class A CDL from Arkansas. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

#### 8. Edward J. Genovese

Mr. Genovese, 38, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/60 and in the left, 20/20. Following an examination in 2003, his optometrist certified, "I believe that with his prior driving experience and his current visual acuity, he is capable of

performing duties required to operate a commercial vehicle." Mr. Genovese reported that he has driven straight trucks for 19 years, accumulating 665,000 miles, and tractor-trailer combinations for 16 years, accumulating 560,000 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no accidents and one conviction for a moving violation—"disregarding an official traffic device"—in a CMV.

#### 9. Dewayne E. Harms

Mr. Harms, 62, lost his left eye due to an injury at age 3. His best-corrected visual acuity in the right eye is 20/20. Following an examination in 2002, his ophthalmologist certified, "Finally it is my medical opinion that Mr. Harms has sufficient vision to perform driving tasks required to operate a commercial vehicle." Mr. Harms reported that he has driven tractor-trailer combinations for 28 years, accumulating 280,000 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

#### 10. Mark D. Kraft

Mr. Kraft, 49, sustained an injury to his right eye at age 13. His best-corrected visual acuity in the right eye is light perception and in the left, 20/20. Following an examination in 2003, his optometrist certified, "Considering the longstanding duration and stability of vision loss of the left eye associated with Mr. Mark Kraft and his unremarkable driving record, I feel Mr. Kraft has sufficient vision to perform the driving tasks required to operate commercial vehicles." Mr. Kraft reported that he has driven straight trucks for 27 years, accumulating 885,000 miles. He holds a Class B CDL from Illinois. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

#### 11. David F. LeClerc

Mr. LeClerc, 44, lost his right eye due to a childhood injury. The visual acuity in his left eye is 20/20. Following an examination in 2003 his optometrist stated, "It is my medical opinion that Mr. LeClerc has no visual limitations that would inhibit his ability to operate a commercial vehicle." Mr. LeClerc submitted that he has driven tractor-trailer combinations for 25 years, accumulating 3.1 million miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no accidents and one conviction for a moving violation—speeding—in a

CMV. He exceeded the speed limit by 11 mph.

*12. Roger J. Mason*

Mr. Mason, 60, has had a torn iris in his right eye for 54 years. His best-corrected visual acuity in the right eye is 20/80 and in the left, 20/20. His optometrist examined him in 2003 and stated, "In my optometric opinion, Mr. Roger J. Mason has sufficient vision to perform driving tasks required to operate a commercial vehicle." Mr. Mason reported that he has driven straight trucks for 3 years, accumulating 210,000 miles, and tractor-trailer combinations for 37 years, accumulating 3.1 million miles. He holds a Class A CDL from Maryland. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

*13. David L. Menken*

Mr. Menken, 47, lost his right eye in 1999 due to an injury. His visual acuity in the left eye is 20/20. Following an examination in 2003, his ophthalmologist certified, "In my opinion, he is medically and visually stable to perform the driving tasks necessary to operate a commercial vehicle." Mr. Menken reported that he has driven tractor-trailer combinations for 20 years, accumulating 2.4 million miles. He holds a class AM CDL from New York. His driving record for the last 3 years shows no accidents and two convictions for moving violations—"disregarding a traffic control device" and "obstructing an intersection"—in a CMV.

*14. Richard L. Messinger*

Mr. Messinger, 74, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/200 and in the left, 20/25. Following an examination in 2003, his ophthalmologist certified, "I feel he has sufficient vision to perform driving tasks required to operate a commercial vehicle." Mr. Messinger reported that he has driven straight trucks for 35 years, accumulating 2.9 million miles. He holds a Class CM driver's license from Pennsylvania. His driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

*15. James M. Nelson*

Mr. Nelson, 58, lost his right eye due to trauma 30 years ago. His best-corrected visual acuity in the left eye is 20/25. Following an examination in 2003, his optometrist certified, "He has had an artificial eye for 30 years, and in my medical opinion he has sufficient

vision to perform the driving tasks required to operate a commercial vehicle since he has done such for several years." Mr. Nelson reported that he has driven straight trucks for 3 years, accumulating 120,000 miles, and tractor-trailer combinations for 34 years, accumulating 3.8 million miles. He holds a Class A CDL from Tennessee. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

*16. Edward J. Perfetto*

Mr. Perfetto, 63, has only light perception in the right eye due to a congenital defect. His best-corrected visual acuity in the left eye is 20/20. Following an examination in 2003, his ophthalmologist certified, "I believe that he has sufficient vision in his eyes to perform the driving tasks required to operate a commercial vehicle." Mr. Perfetto reported that he has driven straight trucks for 30 years, accumulating 750,000 miles. He holds a Class B CDL from New Jersey. His driving record for the last 3 years shows no accidents and one conviction for a moving violation—"truck off truck route"—in a CMV.

*17. Keith G. Reichel*

Mr. Reichel, 39, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/60. Following an examination in 2003, his optometrist certified, "In my opinion Mr. Reichel has adequate vision to operate a commercial vehicle." Mr. Reichel reported that he has driven straight trucks for 17 years, accumulating 340,000 miles. He holds a Class AM CDL from Georgia. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

*18. Carson E. Rohrbaugh*

Mr. Rohrbaugh, 47, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/60. His optometrist examined him in 2003 and stated, "With normal visual fields and 20/20 vision in the right eye, Mr. Rohrbaugh's slightly decreased acuity would not hinder his ability to safely operate a commercial vehicle." Mr. Rohrbaugh submitted that he has driven tractor-trailer combinations for 25 years, accumulating 557,000 miles. He holds a Class A CDL from Pennsylvania. His driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

*19. Ronald L. Roy*

Mr. Roy, 39, is blind in his left eye due to an injury in 1992. His visual acuity in the right eye is 20/20. Following an examination in 2003, his ophthalmologist certified, "In my opinion, he has sufficient vision to perform the driving tasks needed to safely operate a commercial vehicle." Mr. Roy reported that he has driven straight trucks and tractor-trailer combinations for 21 years, accumulating 525,000 miles in the former and 735,000 miles in the latter. He holds a Class AL CDL from Illinois. His driving record for the last 3 years shows no accidents and one conviction for a moving violation—exceeding the speed limit by 13 mph—in a CMV.

*20. Robert E. Sanders*

Mr. Sanders, 55, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/400. Following an examination in 2003, his ophthalmologist stated, "His vision is sufficient and stable to perform the driving tasks required to operate a commercial vehicle." Mr. Sanders reported that he has driven straight trucks for 30 years, accumulating 750,000 miles, and tractor-trailer combinations for 5 years, accumulating 375,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

*21. Earl W. Sheets*

Mr. Sheets, 38, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is count fingers and in the left, 20/25. His ophthalmologist examined him in 2003 and stated, "I certify that it is my medical opinion that he has sufficient vision to perform his driving tasks while operating a commercial vehicle." Mr. Sheets submitted that he has driven straight trucks for 2 years, accumulating 120,000 miles, and tractor-trailer combinations for 20 years, accumulating 2.2 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

*22. James T. Simmons*

Mr. Simmons, 62, has had macular degeneration in his left eye since 1998. His best-corrected visual acuity in the right eye is 20/10 and in the left, 20/200. His ophthalmologist examined him in 2003 and certified, "This patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Simmons submitted that

he has driven tractor-trailer combinations for 35 years, accumulating 4.2 million miles. He holds a Class A CDL from North Carolina. His driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

*23. Donald J. Snider*

Mr. Snider, 54, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/200. His ophthalmologist examined him in 2003 and certified, "His situation is stable and I feel he has sufficient vision to continue operating a commercial vehicle." Mr. Snider reported that he has driven straight trucks for 3 years, accumulating 22,000 miles. He holds a chauffeur's license from Indiana. His driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

*24. Ralphis L. Tisdale*

Mr. Tisdale, 61, lost his right eye due to an injury at age 13. The visual acuity in his left eye is 20/15. Following an examination in 2002 his optometrist stated, "I believe Mr. Tisdale has sufficient vision to perform any driving tasks required of him to operate a commercial vehicle." Mr. Tisdale reported that he has driven straight trucks for 25 years, accumulating 1.3 million miles, and tractor-trailer combinations for 7 years, accumulating 385,000 miles. He holds a Class A CDL from Arkansas. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

*25. Jesse L. Townsend*

Mr. Townsend, 60, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/200. Following an examination in 2002, his ophthalmologist certified, "In my opinion this patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Townsend reported that he has driven straight trucks for 42 years, accumulating 2.9 million miles, tractor-trailer combinations for 30 years, accumulating 2.1 million miles, and buses for 5 years, accumulating 50,000 miles. He holds a Class D chauffeur's license from Louisiana. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

*26. Thomas A. Valik, Jr.*

Mr. Valik, 38, had a tumor removed from his left eye in 1985. His visual

acuity in the right eye is 20/20 and in the left, no light perception. Following an examination in 2003, his optometrist certified, "There is no visual or ocular reason why he would be unable to safely operate a commercial vehicle." Mr. Valik submitted that he has driven straight trucks and tractor-trailer combinations for 15 years, accumulating 375,000 miles in each. He holds a Class A CDL from Michigan. His driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

*27. Thomas D. Walden*

Mr. Walden, 50, has been blind in his left eye due to corneal scarring since age 9. His visual acuity in the right eye is 20/15 with correction. Following an examination in 2003, his ophthalmologist certified, "I believe that if Mr. Walden is accustomed to driving a commercial vehicle that he should meet the criteria for continuing to drive with his current ocular status." Mr. Walden reported that he has driven straight trucks for 23 years, accumulating 1.1 million miles, and tractor-trailer combinations for 10 years, accumulating 500,000 miles. He holds a Class A CDL from Georgia. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

*28. James A. Welch*

Mr. Welch, 41, has amblyopia in his left eye. The visual acuity in his right eye is 20/20 and in the left, 20/200. Following an examination in 2002, his optometrist certified, "Mr. Welch shows a good driving history for many years and has sufficient vision to operate a commercial vehicle." Mr. Welch reported that he has driven straight trucks for 21 years, accumulating 1.1 million miles, and tractor-trailer combinations for 2 years, accumulating 52,000 miles. He holds a Class A CDL from New Hampshire. His driving record for the last 3 years shows one accident and no convictions for moving violations in a CMV. According to the police report, Mr. Welch's truck was struck in the rear while he was waiting to merge into traffic. Mr. Welch was not cited.

*29. John M. Whetham*

Mr. Whetham, 58, was born with no vision in his right eye. The best-corrected visual acuity in his left eye is 20/20. Following an examination in 2003, his optometrist certified, "In my opinion, from my examination and the visual fields, Mr. Whetham has sufficient vision to perform the driving tasks required for his commercial

license." Mr. Whetham reported that he has driven straight trucks and tractor-trailer combinations for 32 years, accumulating 256,000 miles in the former and 1.2 million miles in the latter. He holds a Class A CDL from Montana. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

*30. Michael E. Yount*

Mr. Yount, 46, lost his left eye due to an injury at age 17. His best-corrected visual acuity in the right eye is 20/20. Following an examination in 2003, his optometrist certified, "It is my professional opinion that Mr. Yount is able to visually meet the demands of driving a commercial vehicle." Mr. Yount reported that he has driven straight trucks for 3 years, accumulating 75,000 miles, and tractor-trailer combinations for 20 years, accumulating 1.0 million miles. He holds a Class A CDL from Idaho. His driving record for the last 3 years shows no convictions for moving violations in a CMV.

**Request for Comments**

In accordance with 49 U.S.C. 31315 and 31136(e), the FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued on: August 28, 2003.

**Pamela M. Pelcovits,**

*Acting Associate Administrator, Policy and Program Development.*

[FR Doc. 03-22567 Filed 9-4-03; 8:45 am]

**BILLING CODE 4910-EX-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2003-15024]**

**Notice of Request for Renewal of a Currently Approved Information Collection: Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice.

**SUMMARY:** The FMCSA announces that the Information Collection Request (ICR) described in this notice is being sent to the Office of Management and Budget (OMB) for review and approval pursuant to the Paperwork Reduction Act of 1995. On May 30, 2003, the

FMCSA published a "Notice of Request for Renewal of a Currently Approved Information Collection: Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property" in the **Federal Register**. Comments on the proposed information collection burden were solicited. No comments regarding the ICR were received.

**DATES:** Comments must be submitted on or before October 6, 2003.

**ADDRESSES:** Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC 20503, *Attention:* DOT Desk Officer. We particularly request your comments on whether the collection of information is necessary for the FMCSA to meet its goals of reducing truck crashes, including whether the information is useful to this goal; the accuracy of the estimate of the burden of the information collection; ways to enhance the quality, utility and clarity of the information collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms on information technology.

**FOR FURTHER INFORMATION CONTACT:** Ms. Marian Lee, (202) 385-2423, Insurance Compliance Division (MC-ECI), Federal Motor Carrier Safety Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., *e.t.*, Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* Financial Responsibility for Motor Carrier of Passengers and Motor Carriers of Property.

*OMB Control Number:* 2126-0008.

*Background:* The Secretary of Transportation is responsible for implementing regulations which establish minimal levels of financial responsibility for: (1) Motor carriers of property to cover public liability, property damage, and environmental restoration, and (2) for-hire motor carriers of passengers to cover public liability and property damage. The Endorsement for Motor Carrier Policies of Insurance for Public Liability (Form MCS-90/90B) and the Motor Carrier Public Liability Surety Bond (Form MCS-82/82B) contain the minimum amount of information necessary to document that a motor carrier has obtained, and has in effect, the minimum levels of financial responsibility as set forth in applicable regulations (motor carriers of property—

49 CFR 387.9; and motor carrier of passengers—49 CFR 387.33). FMCSA and the public can verify that a motor carrier of property or passengers has obtained, and has in effect, the required minimum levels of financial responsibility, by use of the information embraced within these documents.

*Respondents:* Insurance and surety companies of motor carriers of property (Form MCS-90 and Form MCS-82) and motor carriers of passengers (Form MCS-90B and Form MCS-82B).

*Average Burden Per Response:* Two minutes to complete the Endorsement for Motor Carrier Policies of Insurances for Public Liability or the Motor Carrier Public Liability Surety Bond; one minute to file the Motor Carrier Public Liability Surety Bond; one minute to have either document on board the vehicle (foreign-domiciled motor carriers only). These endorsements are maintained at the motor carrier's principal place of business (49 CFR 387.7(iii)(d)).

*Estimated Total Annual Burden:* 5,285 hours.

*Frequency:* Upon creation, change, or replacement of an insurance policy or surety bond.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.73.

Issued on: August 8, 2003.

**Warren E. Hoemann,**  
*Deputy Administrator.*

[FR Doc. 03-22568 Filed 9-4-03; 8:45 am]

**BILLING CODE 4910-EX-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

**Environmental Impact Statement:  
Sussex County, DE**

**AGENCIES:** Federal Highway Administration (FHWA) and the Delaware Department of Transportation (DelDOT).

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway improvement project in northern Sussex County, Delaware.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert F. Kleinburd, Realty and Environmental Program Manager, Federal Highway Administration, Delaware Division, J. Allen Frear Federal Building, 300 South New Street, Room 2101, Dover, DE 19904; Telephone: (302) 734-2966; or Mr. Monroe C. Hite, III, P.E., Project

Manager, Delaware Department of Transportation, 800 Bay Road, P.O. Box 778, Dover, DE 19903; Telephone: (302) 760-2120. DelDOT Public Relations office (800) 652-5600 (in DE only).

**SUPPLEMENTARY INFORMATION:** The Federal Highway Administration (FHWA), in cooperation with the Delaware Department of Transportation (DelDOT), will prepare an Environmental Impact Statement (EIS) to consider the construction of a potential new alignment in northern Sussex County, Delaware. The proposed limited access facility could connect two existing highways (U.S. Route 113 and Delaware Route 1), which pass through a rapidly developing commercial area in the City of Milford, Delaware.

DelDOT is currently undertaking a planning study (US 113 North/South Study) to consider improvements for the U.S. Route 113 corridor from the vicinity of Delaware Route 1 north of the City of Milford south to the Delaware/Maryland State Line. The US 113 North/South Study is the next step in the overall planning process for this corridor. This effort will be a follow-up to a previously completed feasibility study (Sussex County North-South Transportation Feasibility Study) in July 2001. The data and findings from the feasibility study indicate that a new alignment bypassing the existing U.S. Route 113 may be considered in the Milford Area.

The US 113 North/South Study recommends that the Milford Area (area in and around the City of Milford located in northern Sussex County, Delaware) should be studied separately from the remaining U.S. Route 113 corridor, south to the Maryland State Line. Because of the potential for a new alignment alternative and the resulting potential for significant impacts on the human environment, the FHWA has determined that an EIS is the appropriate documentation for the Milford Area study.

A program of public involvement and coordination with Federal, State, and local agencies has been initiated. Both agency and public involvement will continue throughout project development. Comments are being solicited from appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Public scoping meetings will be held. Additional informational meetings will be scheduled during the course of the study. In addition, a formal public hearing will be held after the draft EIS

has been prepared. Public notice will be given of the time and place of the scoping meetings, and the formal public hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing on the draft EIS.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or DelDOT at the addressed provided above:

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

Issued by: August 18, 2003.

**Thomas D. Myers,**

*Division Administrator, Federal Highway Administration, Dover, Delaware.*

[FR Doc. 03-22657 Filed 9-4-03; 8:45 am]

**BILLING CODE 4910-22-M**

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### Pipeline Safety: Pipeline Industry Implementation of Effective Public Awareness Programs

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Notice; issuance of advisory bulletin.

**SUMMARY:** RSPA's Office of Pipeline Safety (OPS) is issuing this advisory bulletin to owners and operators of hazardous liquid pipelines, gas transmission pipelines, gas distribution pipelines, and crude oil and gas gathering pipeline systems regulated under 49 CFR parts 192 and 195. The Pipeline Safety Improvement Act of 2002 (PSIA) requires that each owner or operator of a gas or hazardous liquid pipeline facility implement a continuing public education program. By December 17, 2003, each owner or operator must review its existing public education program for effectiveness and modify the program as necessary. RSPA/OPS is asking that each operator complete a self-assessment of its public education program against the guidelines established in the recently-issued consensus standard, American Petroleum Institute's API RP 1162, "Public Awareness Programs for

Pipeline Operators," before December 17, 2003, to demonstrate compliance with the PSIA.

**FOR FURTHER INFORMATION CONTACT:** Jeff Wiese, (202)366-2036; or by e-mail, [jeff.wiese@rspa.dot.gov](mailto:jeff.wiese@rspa.dot.gov). This document can be viewed at the OPS home page at <http://ops.dot.gov>. General information about the RSPA/OPS programs may be obtained by accessing RSPA's home page at <http://RSPA.dot.gov>.

#### I. Advisory Bulletin (ADB-03-04)

**To:** Owners and Operators of Hazardous Liquid Pipelines, Gas Transmission Pipelines, Gas Distribution Pipeline Systems, and Crude Oil and Gas Gathering Pipeline Systems.

**Subject:** Pipeline Industry Implementation of Effective Public Awareness Programs.

**Purpose:** To advise owners and operators of hazardous liquid, gas transmission, gas distribution, and crude oil and gas gathering pipeline systems of the statutory requirement to review and maintain effective public education programs and to evaluate programs for effectiveness.

**Advisory:** The (PSIA) requires that each owner or operator of a gas or hazardous liquid pipeline facility must carry out a continuing public education program. By December 17, 2003, each owner or operator must review its existing public education program for effectiveness and modify the program as necessary. RSPA/OPS is asking each operator to complete a self-assessment of its public education program against the guidelines established in the recently-issued, industry consensus standard, API RP 1162, "Public Awareness Programs for Pipeline Operators." To assist in this process, RSPA/OPS is developing a self-assessment system that operators can access and complete over the Internet. The self-assessment will help operators identify gaps in their public education programs and improvements needed to align their programs with the requirements of API RP 1162. In September 2003, RSPA/OPS, the National Association of Pipeline Safety Representatives, and the pipeline industry are cosponsoring two public workshops to help operators understand the requirements of the law and the use of the self-assessment system. Operators should submit their self-assessments to RSPA/OPS no later than December 17, 2003.

#### SUPPLEMENTARY INFORMATION:

## II. Background

The Federal pipeline safety regulations at 49 CFR parts 192 and 195 require operators of gas and hazardous liquid pipelines to establish continuing educational programs to enable customers, the public, government organizations, and persons engaged in excavation-related activities to recognize a pipeline emergency for the purpose of reporting it to the operator or the appropriate public officials. The regulations also require that operators implement written programs to prevent pipeline damage from excavation activities and establish public awareness liaison with emergency officials. Accordingly, pipeline operators have previously conducted public awareness programs with the affected public, emergency responders, and excavators along their routes.

The PSIA requires that each owner or operator of a gas or hazardous liquid pipeline facility must carry out a continuing program to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unintended releases from the pipeline facility, the physical indications that such a release may have occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event.

The PSIA requires that by December 17, 2003 (not later than 12 months after the date of its enactment), each owner or operator of a gas or hazardous liquid pipeline facility must review its existing public education program for effectiveness and modify the program as necessary. The completed program must include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. The completed program must be submitted to the Secretary of Transportation or, in the case of an intrastate pipeline facility operator, the appropriate State agency, and shall be periodically reviewed by the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency.

The PSIA also provides that the Secretary of Transportation may issue standards prescribing the elements of an effective public education program. The Secretary may also develop material for use in the program.

In recognition of the importance of effective public awareness programs, outstanding recommendations from the National Transportation Safety Board and anticipated legislative action in this regard, an industry task force developed

a consensus standard establishing guidelines for pipeline operators on development, implementation, and evaluation of public awareness programs for operating pipeline systems, API Recommended Practice (RP) 1162, "Public Awareness Programs for Pipeline Operators". The task force included representatives from gas and liquid petroleum transmission companies, local distribution companies, crude oil and gas gathering systems, and industry trade associations. Comments were also solicited from local public officials, the public and interested parties was solicited. Representatives from RSPA/OPS and the National Association of Pipeline Safety Representatives observed and provided input into the development of the standard.

API RP 1162 is currently in the final stages of the balloting process, following the guidelines of both API and the American National Standards Institute. After appropriate revisions to address comments, it is expected to be published as a national consensus standard in the fall of 2003.

RSPA/OPS considers that "public education programs," as used in the PSIA, and "public awareness programs," as used in API RP 1162, are the same. The level of public education and awareness regarding operating pipelines and pipeline safety can only be increased through education and communication programs that are demonstrated to be effective. Therefore, RSPA/OPS is considering incorporating all or portions of API RP 1162 into the pipeline safety regulations. Of particular interest to RSPA/OPS is the operator's evaluation of its program implementation and program effectiveness.

RSPA/OPS has evaluated the PSIA requirements that operators review and modify their public education programs and submit their completed programs to Secretary of Transportation. We have determined that the intent of the requirements can be met and pipeline safety be best served in the short-term by having pipeline operators complete a formal self-assessment of their public education programs against the guidelines provided in API RP 1162.

RSPA/OPS is developing an Internet-based self-assessment that operators can complete electronically. These self-assessments will help operators identify gaps in their public education programs and improvements needed to align their programs with the requirements of API RP 1162. We ask all operators to submit self-assessments of their public education programs to RSPA/OPS no later than December 17, 2003, to meet

the deadline established in the PSIA. This will ensure that operators have complied with the PSIA and will be used in targeting technical assistance workshops to ensure development of effective public education programs.

In 2004, operators will be required to submit their public education program plans to the RSPA/OPS for review. Time frames for submission will be determined by RSPA/OPS and operators will be notified. These plans will need to identify how the operators will address gaps and make improvements in their public education programs. RSPA/OPS will inspect these public education programs as an ongoing part of the pipeline operator inspection program.

RSPA/OPS is co-sponsoring with NAPS and the pipeline industry trade associations (API, INGAA, AOPL, AGA, APGA) two workshops to facilitate these operator self-assessments. The first workshop will be held on September 4-5, 2003, in Houston, TX. The second workshop will be held on September 16-17, 2003, in Baltimore, MD. On August 14, 2003, RSPA/OPS issued a notice providing specific locations and times for the public education workshops (68 FR 48659). Operators of hazardous liquid and gas transmission pipelines, gas local distribution systems and crude oil and gas gathering systems are urged to attend. Each workshop will provide an industry-facilitated review of API RP 1162 and a panel discussion of successful public education practices. RSPA/OPS will describe the self-assessment process and will facilitate sessions on techniques of effective program evaluation.

RSPA/OPS will conduct breakout sessions during these workshops for the hazardous liquid and gas transmission pipeline operators. The breakout sessions will provide a more in-depth overview of the self-assessment process and attempt to gauge the current status of public education programs for the transmission pipeline operators by completion of informal self-assessments in advance of the formal self-assessment requested by December 17, 2003.

Issued in Washington, DC on August 29, 2003.

**Stacey L. Gerard,**

*Associate Administrator for Pipeline Safety.*  
[FR Doc. 03-22665 Filed 9-4-03; 8:45 am]

**BILLING CODE 4910-60-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket Nos. AB-55 (Sub-No. 639X) and AB-565 (Sub-No. 15X)]

#### **CSX Transportation, Inc.— Discontinuance Exemption—In Henry County, IN and New York Central Lines, LLC—Discontinuance Exemption—in Henry County, IN**

On August 18, 2003, New York Central Lines, LLC and CSX Transportation, Inc. (CSXT) (together petitioners), jointly filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to discontinue service over a 1.64-mile line of railroad in CSXT's Western Region, Great Lakes Division, Indianapolis Line Subdivision, extending from milepost QIN 95.34 to milepost QIN 96.98, in New Castle, Henry County, IN. The line traverses U.S. Postal Service Zip Code 47632, and includes no stations.

The line does not contain Federally granted rights-of-way. Any documentation in the petitioners' possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by December 5, 2003.

Any offer of financial assistance to subsidize continued rail service under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a \$1,100 filing fee. See 49 CFR 1002.2(f)(25).

This proceeding is exempt from environmental reporting requirements under 49 CFR 1105.6(c) and from historic reporting requirements under section 1105.8(b).<sup>1</sup>

All filings in response to this notice must refer to STB Docket Nos. AB-55 (Sub-No. 639X) and AB-565 (Sub-No. 15X) and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001; and (2) Natalie S. Rosenberg, 500 Water Street, J150, Jacksonville, FL 32202.

<sup>1</sup> In addition, because these are discontinuance proceedings and an abandonment is not proposed, trail use/rail banking and public use conditions are not appropriate.

Replies to the petition are due on or before September 25, 2003.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152.

Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

Board decisions and notices are available on our Web site at "www.stb.dot.gov."

Decided: August 28, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 03-22512 Filed 9-4-03; 8:45 am]

**BILLING CODE 4915-00-P**

## DEPARTMENT OF THE TREASURY

### Senior Executive Service; Departmental Performance Review Board

**AGENCY:** Department of the Treasury.

**ACTION:** Notice of members of the Departmental Performance Review Board (PRB).

**SUMMARY:** Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members of the Departmental PRB. The purpose of this PRB is to review and make recommendations concerning proposed performance appraisals, ratings, bonuses and other appropriate personnel actions for incumbents of SES positions for which the Secretary or Deputy Secretary is the appointing authority. These positions include SES bureau heads, deputy bureau heads and certain other positions. The Board will perform PRB functions for other key bureau positions if requested.

*Composition of Departmental PRB:* The Board shall consist of at least three members. In the case of an appraisal of a career appointee, more than half the members shall consist of career appointees. The names and titles of the PRB members are as follows:

Teresa Mullet Ressel, Assistant Secretary for Management and Chief Financial Officer  
Timothy D. Adams, Chief of Staff  
Donald V. Hammond, Fiscal Assistant Secretary  
Jeffrey F. Kupfer, Executive Secretary

Brian C. Roseboro, Assistant Secretary (Financial Markets)

W. Earl Wright, Jr., Deputy Assistant Secretary for Workforce Management

Juan C. Zarate, Deputy Assistant Secretary (Executive Office of Terrorist Financing and Financial Crimes)

Tony T. Brown, Director, CDFI Fund (Domestic Finance)

Rebecca A. Contreras, Deputy Assistant Secretary and Chief Human Capital Officer

John M. Duncan, Assistant Secretary (Legislative Affairs)

Reese H. Fuller, Advanced Counterfeit Deterrence Program Director (Domestic Finance)

Geraldine A. Gerardi, Director for Business Taxation

Pamela F. Olson, Assistant Secretary (Tax Policy)

Randal K. Quarles, Assistant Secretary (International Affairs)

Mary Beth Shaw, Director, Office of DC Pensions

Marla A. Freedman, Assistant Inspector General for Audit

William H. Pugh III, Deputy Assistant Inspector General for Audit (Financial Management)

Arthur J. Libertucci, Administrator, Tax and Trade Bureau

John J. Manfreda, Deputy Administrator, Tax and Trade Bureau

Henrietta H. Fore, Director, United States Mint

David A. Lebryk, Deputy Director, United States Mint

Jay M. Weinstein, Associate Director (Policy and Management)/Chief Financial Officer, United States Mint

Richard L. Gregg, Commissioner, Financial Management Service

Kenneth R. Papaj, Deputy Commissioner, Financial Management Service

Nancy Coto Fleetwood, Assistant Commissioner, Information Resources, Financial Management Service

Scott Johnson, Assistant Commissioner, Management (Chief Financial Officer), Financial Management Service

Kerry Lanham, Assistant Commissioner, Agency Services, Financial Management Service

Thomas A. Ferguson, Director, Bureau of Engraving and Printing

Carla F. Kidwell, Associate Director (Technology), Bureau of Engraving and Printing

William W. Wills, Associate Director (Chief Operating Officer), Bureau of Engraving and Printing

John M. Dalrymple, Deputy Commissioner for Operations Support, Internal Revenue Service

Deborah M. Nolan, Commissioner, Large and Mid-Sized Business Division, Internal Revenue Service

Evelyn A. Petschek, Commissioner, Tax Exempt and Government Entities Division, Internal Revenue Service

Toni L. Zimmerman, Chief, Information Technology Services, Modernization and Information Technology Services, Internal Revenue Service

Henry O. Lamar, Commissioner, Wage and Investment Division, Internal Revenue Service

Helen Bolton, Director, Management Services, Modernization and Information Technology Services, Internal Revenue Service

Cecil T. Hua, Director, Systems Engineering and Integration, Business Systems Modernization Office, Internal Revenue Service

Barbara A. Jenkins, Director, Data Management Modernization, Modernization and Information Technology Services, Internal Revenue Service

Frank Y. Ng, Director, Pre-Filing and Technical Guidance, Large and Mid-Sized Business Division, Internal Revenue Service

Kathy K. Petronchak, Deputy Director, Pre-Filing and Technical Guidance, Large and Mid-Sized Business Division, Internal Revenue Service

Renee Shaw, Deputy Director, Business Systems Development Division, Modernization and Information Technology Services, Internal Revenue Service

Estelle R. Tunley, Deputy Director, Submission Processing, Wage and Investment Division, Internal Revenue Service

Frederick Van Zeck, Commissioner, Bureau of the Public Debt

Anne M. Meister, Deputy Commissioner, Bureau of the Public Debt

George B. Wolfe, Deputy General Counsel

Roberta K. McInerney, Assistant General Counsel (Banking & Finance)

Kenneth R. Schmalzbach, Assistant General Counsel (General Law & Ethics)

Carol A. Campbell, Special Counsel to the National Taxpayer Advocate  
Edward L. Patton, Supervisory General Attorney (Tax)

James F. Sloan, Director, Financial Crimes Enforcement Network

William F. Baity, Deputy Director, Financial Crimes Enforcement Network

**DATES:** Membership is effective on the date of this notice.

**FOR FURTHER INFORMATION CONTACT:** Roena B. Markley, Department of the

Treasury, Acting Director, Workforce Solutions Division, 1750 Pennsylvania Avenue, NW., Suite 1200, Washington, DC 20220, Telephone: (202) 622-2962.

This notice does not meet the Department's criteria for significant regulations.

Dated: August 26, 2003.

**Roena B. Markley,**

*Acting Director, Workforce Solutions Division.*

[FR Doc. 03-22617 Filed 9-4-03; 8:45 am]

**BILLING CODE 4811-16-M**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, 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 a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless the information collection displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, "Leasing—12 CFR 23." The OCC also gives notice that it has sent the information collection to OMB for review and approval.

**DATES:** You should submit your comments to the OCC and the OMB Desk Officer by October 6, 2003.

**ADDRESSES:** You should direct comments to:

Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1-5, Attention: 1557-0206-2, 250 E Street, SW., Washington, DC 20219. Due to delays in paper mail delivery in the Washington area, commenters are encouraged to submit comments by fax or e-mail. Comments may be sent by fax to (202) 874-4448, or by e-mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874-5043.

Joseph F. Lackey, Jr., OMB Desk Officer for the OCC, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** You can request additional information or a copy of the collection from Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874-5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** The OCC is proposing to extend OMB approval, without change, of the following information collection:

*Title:* Leasing—12 CFR 23.

*OMB Number:* 1557-0206.

*Description:* This submission covers an existing regulation and involves no change to the regulation or to the information collection requirements. The OCC requests only that OMB extend its approval of the information collection.

The information collection requirements in 12 CFR part 23 are as follows:

12 CFR 23.4(c)—Reporting requirement: National banks must liquidate or re-lease personal property that is no longer subject to lease (off-lease property) within five years from the lease expiration. A bank wishing to extend that five-year holding period for up to an additional five years must obtain OCC approval. To ensure that a bank is not holding property for speculative reasons, the OCC requires the bank to provide a clearly convincing demonstration as to why an additional holding period is necessary. This requirement confers a benefit on national banks and may result in cost savings. This requirement provides flexibility for a bank when it faces unusual and unforeseen conditions under which it would be imprudent to dispose of the off-lease property.

12 CFR 23.4(c)—Recordkeeping requirement: A bank must value off-lease property at the lower of current fair market value or book value promptly after the property comes off-lease.

12 CFR 23.5—Recordkeeping requirement: If a national bank enters into both CEBA leases (a personal property lease authorized under 12 U.S.C. 24(Tenth)) and Section 24(Seventh) leases (a personal property lease authorized under 12 U.S.C. 24(Seventh)), the bank's records must distinguish between the two types of leases. This information is required to

evidence compliance with the statutory limitation on the aggregate amount a national bank may invest in leases pursuant to 12 U.S.C. 24(Tenth).

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profit.

*Estimated Number of Respondents:* 370.

*Estimated Total Annual Responses:* 370.

*Estimated Total Annual Burden:* 685 hours.

*Frequency of Response:* On occasion.

Dated: August 28, 2003.

**Mark J. Tenhundfeld,**

*Assistant Director, Legislative and Regulatory Activities Division.*

[FR Doc. 03-22589 Filed 9-4-03; 8:45 am]

**BILLING CODE 4810-33-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Form 13460

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, 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)). Currently, the IRS is soliciting comments concerning Form 13460, Employer/Payer Information.

**DATES:** Written comments should be received on or before November 4, 2003, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622-3945, or through the Internet at [CAROL.A.SAVAGE@irs.gov](mailto:CAROL.A.SAVAGE@irs.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* Employer/Payer Information.

*OMB Number:* 1545-1849.

*Form Number:* 13460.

*Abstract:* Form 13460 is used to assist filer's who have underreporter or correction issues. Also, this form expedites research of filer's problems.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profit organizations, not-for-profit institutions, farms, Federal, State, local or tribal government.

*Estimated Number of Respondents:* 200.

*Estimated Time Per Respondent:* 15 minutes.

*Estimated Total Annual Burden Hours:* 50.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of 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 start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 29, 2003.

**Carol Savage,**

*Management and Program Analyst.*

[FR Doc. 03-22672 Filed 9-4-03; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Form 13469

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, 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)). Currently, the IRS is soliciting comments concerning Form 13469, Electronic Options for Tax Professionals.

**DATES:** Written comments should be received on or before November 4, 2003, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the brochure should be directed to Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622-3945, or through the Internet at [CAROL.A.SAVAGE@irs.gov](mailto:CAROL.A.SAVAGE@irs.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* Electronic Options for Tax Professionals.

*OMB Number:* 1545-1854.

*Form Number:* 13469.

*Abstract:* This brochure (Publication 4028, which includes Form 13469) will be sent to tax preparers that submitted a mixture of paper and electronic returns for their clients. The brochure provides these professionals the dates and times of electronic seminars being held in the state of Tennessee. These seminars are being conducted to encourage tax professionals to electronically file so the IRS can work toward meeting the goal of 80% electronically filed returns by 2007.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profit organizations.

*Estimated Number of Respondents:* 1,400.

*Estimated Time Per Respondent:* 3 minutes.

*Estimated Total Annual Burden Hours:* 70.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of 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 start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 29, 2003.

**Carol Savage,**

*Management and Program Analyst.*

[FR Doc. 03-22673 Filed 9-4-03; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF VETERANS AFFAIRS

### Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Public Law 92-463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Minority Veterans will be held from Tuesday, September 23, 2003, through Thursday, September 25, 2003, in Seattle, Washington. On September 23, the meeting will be from 10 a.m. until 4:30 p.m. at the VA Puget Sound Health Care System, 1660 S. Columbian Way, Room BB108, Seattle, Washington.

On September 24, the meeting will be from 2:30 p.m. until 8 p.m. at the Yakama Nation Tribal Headquarters, Yakama Nation Eagle Seelatsee Auditorium. On September 25, the meeting will be from 1:30 p.m. until 3:30 p.m. at the VA Regional Office, 915 Second Ave, Room 1010A, Seattle, Washington, and from 5 p.m. until 7 p.m. at the VA Puget Sound Health Care System in Room BB108.

The purpose of the Committee is to advise the Secretary on the administration of VA benefits and services to minority veterans, to assess the needs of minority veterans and to evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities.

On September 23, the Committee will hold panel discussions with key staff members from VA Northwest Veterans Integrated Services Network (20), VA Puget Sound Health Care System and Portland Regional Office on services and benefits delivery challenges and concerns for the Seattle-Tacoma area veterans.

On September 24, the Committee will receive a briefing on Camp Chaparral and hold a veteran town hall meeting beginning at 6 p.m.

On September 25, the Committee will hold panel discussions with various veteran service organizations, several congressional staff and other stakeholders on their concerns and observations of Seattle-Tacoma veterans' needs. The Committee will hold a veteran town hall meeting beginning at 5 p.m.

These sessions will be open to the public. The Committee will accept written comments from interested parties on issues outlined in the meeting agenda, as well as other issues affecting minority veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

For additional information about the meeting, please contact Ms. Elizabeth Olmo at (202) 273-6708.

Dated: August 28, 2003.

By direction of the Secretary.

**E. Philip Riggin,**

*Committee Management Officer.*

[FR Doc. 03-22595 Filed 9-4-03; 8:45 am]

**BILLING CODE 8320-01-M**



# Federal Register

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**Friday,  
September 5, 2003**

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## **Part II**

### **The President**

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**Proclamation 7698—National Alcohol and Drug Addiction Recovery Month, 2003**

**Proclamation 7699—National Ovarian Cancer Awareness Month, 2003**

**Proclamation 7700—National Prostate Cancer Awareness Month, 2003**



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**Presidential Documents**

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**Title 3—****Proclamation 7698 of September 1, 2003****The President****National Alcohol and Drug Addiction Recovery Month, 2003****By the President of the United States of America****A Proclamation**

Alcohol addiction and drug addiction continue to challenge our Nation. Addiction to alcohol or drugs destroys family ties, friendship, ambition, and moral conviction, and reduces the richness of life to a single destructive desire. During National Alcohol and Drug Addiction Recovery Month, we seek to remind all Americans, particularly those who struggle with alcohol or drug addiction, that recovery is possible. This year's theme, "Join the Voices of Recovery: Celebrating Health," salutes the thousands of Americans currently striving to address their alcohol or drug addiction, and the many professionals, volunteers, clergy, community groups, friends, and family members who support others in overcoming addiction.

For the addicted, the fight is an ongoing struggle for their own lives. The process of treatment and recovery is personal, and each individual's treatment needs are different. And as a result, treatment programs must address a wide range of physical, mental, emotional, and spiritual needs. When properly tailored, alcohol and drug addiction treatment can be very effective.

Last year, approximately 100,000 individuals who sought treatment for alcohol and drug addiction were unable to receive the help they needed. To address this problem, I have proposed a new initiative, Access to Recovery, that will increase the availability and effectiveness of treatment programs. With \$600 million, an additional 300,000 Americans will gain access to needed treatment over the next 3 years.

Access to Recovery will build on existing alcohol and drug treatment services by offering greater choices to those seeking treatment. Our Nation is blessed with many recovery programs that do exceptional work, and we must make these programs available to more people. By providing vouchers that enable those struggling with addiction to get help from a wide range of sources that work, including faith-based and community organizations, we will expand treatment options and accountability. This flexibility will strengthen our system and offer more hope to those in need.

My Administration has taken important steps to cut off illegal drug supplies and reduce demand through anti-drug education. For those who become addicted to drugs or to alcohol, my Administration is committed to tearing down the stigma attached to recovery so that more people will seek the help they need. Alcohol addiction and drug addiction are diseases that touch all Americans—young and old, rich and poor, male and female. As a Nation, we must continue our efforts to offer the best possible opportunities, settings, and approaches to prevent and treat alcohol and drug addiction. By caring for those who need treatment, we are building a more welcoming and compassionate culture that values every life.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 2003 as National Alcohol and Drug Addiction Recovery Month. I call upon all the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of September, 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.

A handwritten signature in black ink, appearing to read "G. W. Bush". The signature is written in a cursive style with a large, sweeping initial "G" and a distinct "W".

[FR Doc. 03-22809

Filed 9-4-03; 8:45 am]

Billing code 3195-01-P

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## Presidential Documents

**Proclamation 7699 of September 1, 2003**

**National Ovarian Cancer Awareness Month, 2003**

**By the President of the United States of America**

### **A Proclamation**

It is estimated that more than 25,000 American women will be diagnosed with ovarian cancer this year and that more than 14,000 will die from this disease. During National Ovarian Cancer Awareness Month, we seek to increase understanding of ovarian cancer and the importance of early detection, and to recognize the advances made to eliminate this disease.

Early detection and education are critical to treating ovarian cancer. Today, only half of the women diagnosed with this disease are expected to survive 5 years or more. However, the 5-year survival rate for those whose cancer is detected early is more than 90 percent. When the disease is discovered in its early stages, doctors are able to treat it with standard methods, such as surgery, chemotherapy, and radiation therapy.

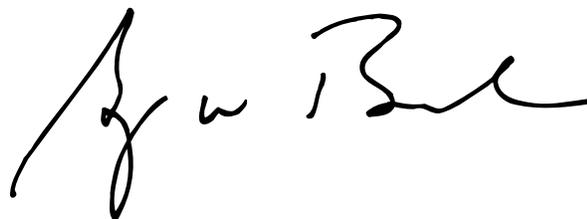
Researchers have made significant progress in developing screening tests that can accurately diagnose ovarian cancer. Much work remains, however, before we can reliably detect the disease in its earliest stages when treatment is most effective. I urge all women to talk to their doctors about ovarian cancer and the best course of action to detect and treat this deadly disease. Doing so is particularly important for women aged 40 or older, those with a family history of ovarian cancer, and those with a personal history of breast, endometrial, or colon cancer. And I urge individuals across the country to learn more about this disease and what can be done to reduce the number of individuals who suffer from it.

In addition to encouraging early detection and increasing awareness about ovarian cancer, we must continue to advance our knowledge through research. Scientists at the Centers for Disease Control and Prevention, the National Cancer Institute, the Department of Defense, the Food and Drug Administration, other Federal agencies, and private companies are working hard to discover the causes of ovarian cancer and to design more effective screening and treatment options. Through their research, we hope to learn how to reduce the chances of developing this disease, how to recognize it in its earliest stages, and how to successfully treat women in every stage of ovarian cancer. The vision and determination of these professionals, along with the courage of the women who participate in clinical trials, are helping to turn today's research advances into tomorrow's success stories.

My Administration remains committed to supporting research efforts to help find a cure for ovarian cancer. My fiscal year 2004 budget proposal includes more than \$5.6 billion for cancer research at the National Institutes of Health. This investment will lead to a better understanding of ovarian cancer and greater hope for women who suffer from this disease. Through education and continued research, we can win the fight against ovarian cancer and save the lives of thousands of American women.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 2003 as National Ovarian Cancer Awareness Month. I call upon the people of the United States to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of September, 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.

A handwritten signature in black ink, appearing to read "G. W. Bush". The signature is written in a cursive, flowing style with a large initial "G" and a distinct "W".

[FR Doc. 03-22810

Filed 9-4-03; 8:45 am]

Billing code 3195-01-P

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## Presidential Documents

**Proclamation 7700 of September 1, 2003**

**National Prostate Cancer Awareness Month, 2003**

**By the President of the United States of America**

### **A Proclamation**

Prostate cancer is the second most common form of cancer among men in the United States. This year alone, it is estimated that more than 220,000 new cases of prostate cancer will be diagnosed and that nearly 29,000 men will die from this disease. During National Prostate Cancer Awareness Month, we seek to increase understanding about the risk factors of prostate cancer, the importance of a healthy lifestyle, and the benefits of detecting the disease in its earliest stages, when it is most treatable.

Although the exact cause of prostate cancer is unknown, several factors have been found to increase the risk of developing this disease. Men aged 65 years or older make up about 70 percent of all diagnosed prostate cancer cases. In addition, a man's risk of developing prostate cancer doubles if a father or brother has been diagnosed with the disease.

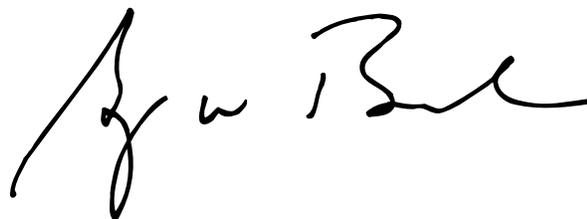
Making healthy choices is critical to prevent prostate cancer and many other diseases. Research suggests that some men may be able to reduce their risk of prostate cancer by eating healthy foods and exercising on a regular basis.

Early detection is important in successfully treating prostate cancer. Preventative screenings can reveal a man's current health status and identify whether he needs to adjust his diet or behavior. I urge men, particularly those over 50, to learn more about the disease and to talk to their doctors about when to start preventative screening. Healthcare providers can advise men as to which tests are most appropriate. Through early detection and treatment, we can reduce the number of deaths caused by prostate cancer.

Today, our Nation is on the leading edge of new discoveries. As we continue to make advancements in medicine, my Administration remains committed to learning the causes of prostate cancer and finding a cure. My fiscal year 2004 budget proposal includes more than \$13 million for the Centers for Disease Control and Prevention to conduct, support, and promote efforts that increase awareness of screening and early detection, and more than \$5.6 billion for cancer research at the National Institutes of Health. Through my HealthierUS Initiative, my Administration is also encouraging all citizens to lead healthier lives by eating right, exercising, and taking advantage of preventative screening. By working together, we will improve our ability to prevent, treat, and cure prostate cancer.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 2003 as National Prostate Cancer Awareness Month. I call upon government officials, businesses, communities, healthcare professionals, educators, volunteers, and all people of the United States to reaffirm our Nation's strong and continuing commitment to prevent, treat, and cure prostate cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of September, 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.

A handwritten signature in black ink, appearing to read "G. W. Bush". The signature is written in a cursive, flowing style with a large initial "G" and a distinct "W".

[FR Doc. 03-22811

Filed 9-4-03; 8:45 am]

Billing code 3195-01-P

# Reader Aids

## Federal Register

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Friday, September 5, 2003

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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#### H.R. 2195/P.L. 108-72

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#### H.R. 2465/P.L. 108-73

Family Farmer Bankruptcy Relief Act of 2003 (Aug. 15, 2003; 117 Stat. 891)

#### H.R. 2854/P.L. 108-74

To amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program, and for other purposes. (Aug. 15, 2003; 117 Stat. 892)

#### S. 1015/P.L. 108-75

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#### H.R. 1412/P.L. 108-76

Higher Education Relief Opportunities for Students Act of 2003 (Aug. 18, 2003; 117 Stat. 904)

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