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## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Part 2600

**RIN 3209–AA21**

### Office of Government Ethics Organization and Functions Regulation; Clarifying Amendment

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Final rule; amendment.

**SUMMARY:** The Office of Government Ethics recently published in the **Federal Register** its final rule updated organization and functions regulation. This amendment clarifies one section of that updated regulation regarding the principal deputy role of OGE's General Counsel.

**EFFECTIVE DATE:** November 3, 2003.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Horton, Attorney Advisor, Office of Government Ethics; telephone: 202–482–9300; TDD (Telecommunications Device for the Deaf and Speech Impaired): 202–482–9293; FAX: 202–482–9237.

**SUPPLEMENTARY INFORMATION:** Section 2600.103(c)(2) of OGE's recently updated organization and functions regulation as published at 68 FR 41681–41683 (July 15, 2003) provides that the OGE General Counsel serves as the principal deputy of the Director of OGE. This amendment to that section clarifies that OGE's General Counsel so serves, except as the OGE Director expressly provides by written delegation.

**Matters of Regulatory Procedure**

*Administrative Procedure Act*

Pursuant to 5 U.S.C. 553(b) and (d), as Director of the Office of Government Ethics, I find good cause exists for waiving the general notice of proposed rulemaking, opportunity for public comment, and 30-day delay in effectiveness as to this clarifying amendment to OGE's organization and functions regulation as recently revised. The notice, comment, and delayed effective date are being waived because this amendment concerns matters of agency organization, practice and procedure.

*Executive Order 12866*

In promulgating this clarifying amendment, OGE has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This amendment has not been reviewed by the Office of Management and Budget under that Executive Order, since it is not deemed ''significant'' thereunder.

*Executive Order 12988*

As Director of the Office of Government Ethics, I have reviewed this final regulatory amendment in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

*Regulatory Flexibility Act*

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this amendatory rulemaking will not have a significant economic impact on a substantial number of small entities.

*Paperwork Reduction Act*

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this amendatory rulemaking does not contain information collection requirements that require the approval of the Office of Management and Budget.

*Congressional Review Act*

The Office of Government Ethics has determined that this amendatory rulemaking is a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and will submit a report thereon to the U.S. Senate, House of Representatives, and General Accounting Office in accordance with that law at the same time this rulemaking document is sent to the Office of the Federal Register for publication in the **Federal Register**.

**List of Subjects in 5 CFR Part 2600**

Conflict of interests, Government employees, Organization and functions (Government agencies).

Approved: October 28, 2003.

**Amy L. Comstock,**

*Director, Office of Government Ethics.*

■ Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending 5 CFR part 2600 as follows:

## PART 2600—ORGANIZATION AND FUNCTIONS OF THE OFFICE OF GOVERNMENT ETHICS

■ 1. The authority citation for part 2600 continues to read as follows:

**Authority:** 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.

■ 2. Section 2600.103 is amended by revising paragraph (c)(2) to read as follows:

**§ 2600.103 Office of Government Ethics organization and functions.**

* * * * *

(c) * * *

(2) The General Counsel is the principal deputy of the Director of OGE, except as the Director expressly provides by written delegation.

* * * * *

[FR Doc. 03–27518 Filed 10–31–03; 8:45 am]

BILLING CODE 6345–02–P

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### 7 CFR Part 20

### Export Sales Reporting Requirements

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Export Sales Reporting Regulation to clarify certain agency interpretations relating to reporting obligations; adopts provisions incorporating new reporting technologies; and extends the time for submitting weekly reports. These changes will simplify the reporting requirements and ensure the accuracy of U.S. export sales reporting.

**EFFECTIVE DATE:** December 3, 2003.

**FOR FURTHER INFORMATION CONTACT:** Tim Rocke, Marketing Operations Staff, Stop 1025, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–1025, or telephone at (202) 720–3274, or e-mail at *Tim.Rocke@fas.usda.gov.*

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12372**

This program is not subject to the provision of Executive Order 12372, which requires intergovernmental consultation with State or local officials (See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983).

**Executive Order 12988**

This final rule has been reviewed under Executive Order 12988. The provisions of this final rule will have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. This final rule will not have retroactive effect. Administrative proceedings are not required before parties may seek judicial review.

**Executive Order 12866**

This final rule is issued in conformance with Executive Order 12866. It has been determined not significant by the Office of Management and Budget (OMB).

**Regulatory Flexibility Act**

This final rule should not have a significant economic impact on a substantial number of small entities. The time and expense of complying with this final rule is negligible. Data required under the final rule are routinely maintained during the normal course of export sales contracting business activity and changes made by this rule should ease any present reporting burdens. A copy of this final rule has been sent to the Chief Counsel, Office of Advocacy, U.S. Small Business Administration.

**Paperwork Reduction Act**

This final rule does not impose any new reporting or record keeping requirements. The Department uses forms FAS–97, FAS–98, FAS–99, FAS–100, and an electronic reporting system for the collection of information. OMB has assigned control number 0551–0007 to these forms and has approved current collection through July 31, 2004. Copies of the information collection may be obtained from Kimberly Chisley, the Agency Information Collection Coordinator, at (202) 720–2568 or e-mail at *Kimberly.Chisley@fas.usda.gov.*

**Background**

Section 602 of the Agricultural Trade Act of 1978, as amended, requires the reporting of information pertaining to contracts for export sale of certain specified agricultural commodities and other commodities that may be designated by the Secretary. In accordance with Sec. 602, individual weekly reports submitted shall remain confidential and shall be compiled and published in compilation form each week following the week of reporting. Any person who knowingly fails to make a report shall be fined not more than $25,000 or imprisoned for not more than one year, or both. Regulations at 7 CFR part 20 implement the reporting requirements, and prescribe a system for reporting information pertaining to contracts for export sales.

Section 913(b)(1) of Public Law 106–78 requires implementation of an electronic system for reporting export sales information regarding beef. On October 11, 2001, the Department published a notice in the **Federal Register,** 66 FR 51922, requesting comments on an electronic reporting system that would be applicable to beef and all other commodities subject to the export sales reporting regulations. FAS received 15 comments, and all responses were in favor of electronic reporting. In response to specific suggestions in the comments: FAS has developed a function that will allow the user to view and print the information submitted electronically; in the event of technical difficulties, FAS will continue to accept alternative means of submitting reports; and a user ID, password and user manual will be mailed to each participating export firm. In addition, the user manual will be available on the ESR Online Web site: *https://ww2.fas.usda.gov/esr_rpt.*

FAS will proceed to adopt the electronic reporting system as described in the October 11, 2001, **Federal Register** document. Additionally, exporters will have the option to satisfy their export sales reporting obligation represented by forms FAS–97, FAS–98, and FAS–100 through e-mail submission of ASCII comma delimited files. This may be of special significance to beef exporters that are required to report marketing of beef to the Agricultural Marketing Service (AMS) pursuant to 7 CFR part 59 (Livestock Mandatory Reporting).

This final rule also changes the time that weekly reports must be received by FAS from 5 p.m. each Monday to 11:59 p.m. Monday, thereby giving exporters more time to submit the weekly report; specifies that information from daily reports will be made available to the public at 9 a.m. daily; and makes other non-substantive changes.

**List of Subjects in 7 CFR Part 20**

Agricultural commodities, Exports, Reporting and recordkeeping requirements.

■ Accordingly, for the reasons set forth in the preamble, 7 CFR part 20 is amended as follows:

## PART 20—EXPORT SALES REPORTING REQUIREMENTS

■ 1. The authority citation for part 20 continues to read as follows:

**Authority:** 7 U.S.C. 5712.

■ 2. Section 20.4 is amended by revising the first sentence of paragraph (c), revising the last sentence of paragraph (d), and revising paragraph (g) to read as follows:

### § 20.4 Definitions.

* * * * *

(c) *Commodity.* Wheat and wheat flour, feed grains, oilseeds, cotton, rice, cattle hides and skins, beef, and any products thereof, and any other agricultural commodity the Secretary may designate. * * *

(d) * * * Country of destination shall be the ultimate destination of the export, and shall not be deemed to be the country through which any transshipment takes place.

* * * * *

(g) *Exports for exporter's own account.* A transaction involving shipments made by the reporting exporter which are unsold at the time of export, shipments on consignment to selling agents of the reporting exporter for subsequent sale for the account of the reporting exporter, shipments by the reporting exporter that have not been allocated to any outstanding export sale, and shipments from the United States to any foreign country in bond for subsequent shipment to a third country.

* * * * *

### § 20.5 [Amended]

■ 3. Section 20.5 is amended by removing the phrase ''and ticker'' after ''press'' in the second and third sentence.

■ 4. Section 20.6 is amended by removing the third and fourth sentences of paragraph (a) introductory text and adding five sentences in their place, adding the word ''new'' before ''export'' in the first sentence of each of paragraph (a)(1)(ii), (a)(2)(ii), and (a)(3)(ii), revising the first sentence of paragraph (k)(1), and revising the first sentence of paragraph (k)(2) to read as follows.

**§ 20.6 Submission of reports.**

(a) * * * If the reporting exporter determines that the report forms cannot be received in the office specified in ''20.10 by the time specified in paragraph (k) of this section, the exporter shall transmit the information contained in the report forms by the use of FAX, telephone, or electronic submission. The required form must be subsequently submitted in accordance with § 20.6(k)(2). Exporters have the option to submit the weekly reports using an electronic reporting system (forms 97e, 98e, and 100e) which may be accessed via a secured Internet website. Reporting exporters should contact the Export Sales Reporting staff to obtain passwords and access to the Internet reporting site. Exporters also have the option of satisfying the requirements of Forms FAS–97, FAS–98, and FAS–100 by submitting ASCII comma delimited files via e-mail to the ESR mailbox at *esr@fas.usda.gov.*

* * * * *

(k) *Manner and time of reporting—(1) Manner.* An original of all report forms, other than electronic forms and ASCII comma delimited files, must be filed with the office specified in § 20.10. * * *

(2) *Time of filing reports.* Information required to be reported weekly (either via fax, telephone, or electronically) must be received in the office specified in § 20.10 no later than 11:59 p.m. eastern time, on each Monday or such other time as may be approved in advance by that office. * * *

■ 5. Section 20.7 is amended by revising the third sentence of the paragraph to read as follows:

**§ 20.7 Confidentiality of reports.**

* * * Information from daily reports filed by exporters will be made available to the public on the following business day at 9 a.m., eastern time. * * *

**§ 20.10 [Amended]**

■ 6. Section 20.10 is amended by adding the phrase ''FAX: (202) 690–3270 or (202) 690–3273'' after ''office''.

Signed at Washington, DC, on October 22, 2003.

**A. Ellen Terpstra,**

*Administrator, Foreign Agricultural Service.*

[FR Doc. 03–27590 Filed 10–31–03; 8:45 am]

BILLING CODE 3410–10–P

## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

## 7 CFR Part 205

**[Docket Number TM–03–02]**

**RIN 0581–AC27**

## National Organic Program; Amendments to the National List of Allowed and Prohibited Substances

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the U.S. Department of Agriculture's (USDA) National List of Allowed and Prohibited Substances (National List) to reflect recommendations submitted to the Secretary by the National Organic Standards Board (NOSB). Consistent with recommendations from the NOSB, this final rule adds four substances, along with any restrictive annotations, to the National List, and revises the annotation of one substance.

**EFFECTIVE DATE:** This rule becomes effective November 4, 2003.

**FOR FURTHER INFORMATION CONTACT:** Richard H. Mathews, Program Manager, National Organic Program, Telephone: (202) 720–3252; Fax: (202) 205–7808.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On December 21, 2000, the Secretary established, within the National Organic Standards (NOS) [7 CFR part 205], the National List (§§ 205.600 through 205.607). The National List is the Federal list that identifies synthetic substances and ingredients that are allowed and nonsynthetic (natural) substances and ingredients that are prohibited for use in organic production and handling. Since established, the National List has not been amended. However, under the authority of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501 *et seq.*), the National List can be amended by the Secretary based on proposed amendments developed by the NOSB.

This final rule amends the National List to reflect recommendations submitted to the Secretary by the NOSB from November 15, 2000, through September 17, 2002. Between the specified time period, the NOSB has recommended that the Secretary add five substances to § 205.605 of the National List based on petitions received from industry participants. These substances were evaluated by the NOSB using the criteria specified in OFPA (7 U.S.C. 6517 and 6518) and the NOS. The NOSB also recommended that the Secretary revise the annotation of one substance included within § 205.605.

The NOSB has recommended that the Secretary add additional substances to §§ 205.605 and 205.606 that have not been included in this final rule but are under review and, as appropriate, will be included in future rulemaking.

### II. Overview of Amendments

The following provides an overview of the amendments made to designated sections of the National List:

**§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s)).''**

This final rule amends paragraph (a) of § 205.605 by adding animal enzymes—without Lysosyme, calcium sulfate—mined, and glucono delta-lactone. This final rule also amends paragraph (b) of § 205.605 by adding cellulose.

This final rule revises current paragraph (b) of § 205.605 by amending an annotation to read as follows:

Potassium hydroxide—prohibited for use in lye peeling of fruits and vegetables except when used for peeling peaches during the Individually Quick Frozen (IQF) production process.

### III. Related Documents

Eight notices were published regarding the meetings of the NOSB and its deliberations on recommendations and substances petitioned for amending the National List. Substances and recommendations included in this final rule were announced for NOSB deliberation in the following **Federal Register** Notices: (1) 65 FR 64657, October 30, 2000, (Animal enzymes); (2) 66 FR 10873, February 20, 2001, (Calcium sulfate); (3) 66 FR 48654, September 21, 2001, (Cellulose, and Potassium hydroxide); and (4) 67 FR 54784, August 26, 2002, (Glucono delta-lactone, and Tetrasodium pyrophosphate).

### IV. Statutory and Regulatory Authority

The OFPA, as amended (7 U.S.C. 6501 *et seq.*), authorizes the Secretary, at § 6517(d)(1), to make amendments to the National List based on proposed amendments developed by the NOSB. Sections 6518(k)(2) and 6518(n) of OFPA authorize the NOSB to develop proposed amendments to the National List for submission to the Secretary and establish a petition process by which persons may petition the NOSB for the purpose of having substances evaluated for inclusion onto or deletion from the

National List. The National List petition process is implemented under § 205.607 of the NOS. The current petition process (65 FR 43259) can be accessed through the NOP Web site at *http://www.ams.usda.gov/nop.*

*A. Executive Order 12866*

This action has been determined to be non-significant for purposes of Executive Order 12866, and therefore, does not have to be reviewed by the Office of Management and Budget.

*B. Executive Order 12988*

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations in order to avoid unduly burdening the court system. The final rule was reviewed under this Executive Order and no additional related information has been obtained since then. This final rule is not intended to have a retroactive effect.

States and local jurisdictions are preempted under section 2115 of the OFPA (7 U.S.C. 6514) from creating programs of accreditation for private persons or State officials who want to become certifying agents of organic farms or handling operations. A governing State official would have to apply to USDA to be accredited as a certifying agent, as described in § 2115(b) of the OFPA (7 U.S.C. 6514(b)). States are also preempted under §§ 2104 through 2108 of the OFPA (7 U.S.C. 6503 through 7 U.S.C. 6507) from creating certification programs to certify organic farms or handling operations unless the State programs have been submitted to, and approved by, the Secretary as meeting the requirements of the OFPA.

Pursuant to § 2108(b)(2) of the OFPA (7 U.S.C. 6507(b)(2)), a State organic certification program may contain additional requirements for the production and handling of organically produced agricultural products that are produced in the State and for the certification of organic farm and handling operations located within the State under certain circumstances. Such additional requirements must: (a) Further the purposes of the OFPA, (b) not be inconsistent with the OFPA, (c) not be discriminatory toward agricultural commodities organically produced in other States, and (d) not be effective until approved by the Secretary.

Pursuant to section 2120(f) of the OFPA (7 U.S.C. 6519(f)), this regulation would not alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Poultry Products Inspections Act (21 U.S.C. 451 *et seq.*), or the Egg Products Inspection Act (21 U.S.C. 1031 *et seq.*), concerning meat, poultry, and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 *et seq.*), nor the authority of the Administrator of the Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 *et seq.*).

Section 2121 of the OFPA (7 U.S.C. 6520) provides for the Secretary to establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under this title that adversely affects such person or is inconsistent with the organic certification program established under this title. The OFPA also provides that the U.S. District Court for the district in which a person is located has jurisdiction to review the Secretary's decision.

*C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose is to fit regulatory actions to the scale of businesses subject to the action. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

Pursuant to the requirements set forth in the RFA, the Agricultural Marketing Service (AMS) performed an economic impact analysis on small entities in the final rule published in the **Federal Register** on December 21, 2000. AMS has also considered the economic impact of this action on small entities and has determined that this final rule will have an impact on a substantial number of small entities. However, AMS has determined that the impact on entities affected by this rule will not be significant. The effect of this rule will be to allow the use of additional substances in agricultural production and handling. This action relaxes the regulations published in the final rule and provides small entities with more tools to use in day-to-day operations. The AMS concludes that the economic impact of this addition of allowed substances, if any, will be minimal and entirely beneficial to small agricultural service firms. Accordingly, the Administrator of the AMS hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Small agricultural service firms, which include producers, handlers, and accredited certifying agents, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $750,000 and small agricultural producers are defined as those having annual receipts of less than $5,000,000.

The U.S. organic industry at the end of 2001 included nearly 6,600 certified crop and livestock operations, including organic production and handling operations, producers, and handlers. These operations reported certified acreage totaling more than 2.34 million acres, 72,209 certified livestock, and 5.01 million certified poultry. Data on the numbers of certified handling operations are not yet available, but likely number in the thousands, as they would include any operation that transforms raw product into processed products using organic ingredients. Growth in the U.S. organic industry has been significant at all levels. From 1997 to 2001, the total organic acreage grew by 74 percent; livestock numbers certified organic grew by almost 300 percent over the same period, and poultry certified organic increased by 2,118 percent over this time. Sales growth of organic products has been equally significant, growing on average around 20 percent per year. Sales of organic products were approximately $1 billion in 1993, but are estimated to reach $13 billion this year, according to the Organic Trade Association (the association that represents the U.S. organic industry). In addition, USDA has accredited 85 certifying agents who have applied to USDA to be accredited in order to provide certification services to producers and handlers. A complete list of names and addresses of accredited certifying agents may be found on the AMS NOP Web site, at *http://www.ams.usda.gov/nop.* AMS believe that most of these entities would be considered small entities under the criteria established by the SBA.

*D. Paperwork Reduction Act*

Pursuant to the Paperwork Reduction Act of 1995, the existing information collection requirements for the NOP are approved under OMB number 0581–0181. No additional collection or recordkeeping requirements are imposed on the public by this final rule. Accordingly, OMB clearance is not required by section 350(h) of the

Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, or OMB's implementing regulation at 5 CFR part 1320.

*E. Discussion of Comments*

The proposed rule was published in the **Federal Register** on May 22, 2003, with a ten-day comment period ending on June 2, 2003. Eighteen comments were received on TM–03–02. All comments on the proposed rule were posted on the NOP website.

Commenters on proposed rule TM–03–02 were consumers, producers, processors, the NOSB, certifying agents, food industry organizations, and trade organizations. The comments received were for amending the National List of Allowed and Prohibited Substances by adding to: § 205.605(a): Calcium sulfate-mined, and glucono delta-lactone; and to § 205.605(b): animal enzymes-without Lysosyme, cellulose, and terasodium pyrophosphate. The commenters were also for amending the annotation for potassium hydroxide as follows: Potassium hydroxide-prohibited for use in lye peeling of fruits and vegetables except when used for peeling peaches during the Individually Quick Frozen (IQF) production process.

We received five comments on Calcium sulfate-mined, all of which were in support of adding it to the National List. Two of the commenters requested that the annotation be changed to the NOSB recommendation ''allowed from non-synthetic sources only.'' They felt this annotation would cover the mined calcium sulfate as well as any other naturally derived forms, should they become commercially available. This substance will be added to the National List as published in the proposed rule because it would be redundant to state ''from non-synthetic sources only'' because the sub-section heading is ''Nonsysthetics allowed.''

Five comments were received in favor of adding Glucono delta-lactone to the National List. Four of the commenters requested it be added with the following annotation: ''produced through microbial fermentation of carbohydrates only.'' This annotation would disallow the use of oxidation of D-glucose with enzymes, but enzymes are allowed in § 205.605(a). Accordingly, this annotation is not adopted. However, the listing is amended to add the annotation ''production by the oxidation of D-glucose with bromine water is prohibited.'' This will allow only the microbial and enzymes oxidation production methods.

Six comments were received in favor of adding Animal enzymes-(Rennet-animal derived; Catalase-bovine liver; Animal lipase; Pancreatin; Pepsin; and Trypsin) to the National List. All agreed, however, that it should be listed in § 205.605 (a) as an allowed nonsynthetic rather than § 205.605 (b) as an allowed synthetic. Because the NOSB recommended it as an allowed nonsynthetic, and it was inadvertently listed as an allowed synthetic, the substance will be moved to § 205.605 (a), allowed nonsynthetics.

Six comments were received in favor of adding Cellulose to the National List. One commenter was opposed to adding this substance to the National List because the substance is synthetic and the commenter believes that the substance is not essential to any product formulation. The commenter also stated that there are a number of analogous substances already on the National List as allowed substances that can fulfill the role. One commenter requested that the annotation be separated to avoid confusion with other cellulose derivates that are used as food additives and have been rejected by the NOSB. The NOSB considered the issues raised by both commenters in formulating its recommendation and we believe that no further change is needed based on these comments. In light of this, this substance will be added to the National List as proposed.

Tertrasodium Pyrophospate received six comments, three in favor of and three opposed to inclusion on the National List. Several commenters expressed concern over the recommended annotation. They indicated that the annotation is vague, confusing, undefined and needs clarification. They stated that the primary use of this substance appears to be to create a texture that is similar to a meat product, and that this directly conflicts with the criterion established in § 205.600(b)(4):

> the substance's primary use is not as a preservative or to recreate or improve flavors, colors, textures, or nutritive value lost during processing, except where the replacement of nutrients is required by law.

We believe these comments have merit, and accordingly, we have not added this substance to the National List. We will return the NOSB's recommendation on this substance to the NOSB for reconsideration.

Potassium hydroxide received six comments, five in favor of and one opposed to amending the annotation. The commenter opposed to the annotation amendment did not agree that the substance was essential to the peeling of peaches. The commenter stated that peach peeling production trials, without using the substance, were not exhaustive of the possibilities they could have employed to gain a successful outcome and therefore the substance should not be allowed. The petitioner of this substance provided substantial supporting data that the NOSB considered in its review of the substance. The NOSB's recommended annotation change is based on all of the evidence provided. One commenter suggested this not be restricted to just peaches, but allowed for ''peeling of Stone Fruit.'' However, the petitioner and the NOSB considered only peaches and not stone fruit generally. Accordingly, the annotation is amended as proposed.

Pursuant to 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This rule reflects recommendations submitted to the Secretary by the NOSB. The substances to be added to the National List were based on petitions from the industry and evaluated by the NOSB using criteria in the Act and regulations. Because these substances are critical to organic production and handling, the National List should be amended as soon as possible.

**List of Subjects in 7 CFR Part 205**

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

■ For the reasons set forth in the preamble, 7 CFR part 205, subpart G is amended as follows:

## PART 205—NATIONAL ORGANIC PROGRAM

■ 1. The authority citation for 7 CFR part 205 continues to read as follows:

**Authority:** 7 U.S.C. 6501–6522.

■ 2. Section 205.605 is amended by:

■ a. Adding three substances to paragraph (a).

■ b. Adding one substance to paragraph (b).

■ c. Revising Potassium hydroxide in paragraph (b).

The additions and revisions read as follows:

**§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s)).''**

* * * * *

(a) * * *

Animal enzymes—(Rennet—animals derived; Catalase—bovine liver; Animal lipase; Pancreatin; Pepsin; and Trypsin).

* * * * *

Calcium sulfate—mined.

* * * * *

Glucono delta-lactone—production by the oxidation of D-glucose with bromine water is prohibited.

* * * * *

(b) * * *

* * * * *

Cellulose—for use in regenerative casings, as an anti-caking agent (non-chlorine bleached) and filtering aid.

* * * * *

Potassium hydroxide—prohibited for use in lye peeling of fruits and vegetables except when used for peeling peaches during the Individually Quick Frozen (IQF) production process.

* * * * *

Dated: October 27, 2003.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 03–27416 Filed 10–31–03; 8:45 am]

**BILLING CODE 3410–02–P**

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## DEPARTMENT OF AGRICULTURE

## Animal and Plant Health Inspection Service

## 7 CFR Part 331

## 9 CFR Part 121

**[Docket No. 02–088–3]**

**RIN 0579–AB47**

## Agricultural Bioterrorism Protection Act of 2002; Possession, Use, and Transfer of Biological Agents and Toxins

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the regulations governing the possession, use, and transfer of listed biological agents and toxins in order to allow for the issuance of provisional registration certificates for individuals and entities and provisional grants of access to listed biological agents and toxins for individuals. These provisional measures are designed to provide additional time for the Attorney General to complete security risk assessments for those individuals and entities for which the Attorney General has received, by November 12, 2003, all of the information required to conduct a security risk assessment. This action is necessary to ensure that research and educational programs are not disrupted.

**DATES:** This interim rule is effective on November 3, 2003. We will consider all comments that we receive on or before January 2, 2004.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–088–3, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–088–3. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–088–3'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

**FOR FURTHER INFORMATION CONTACT:** For information concerning the regulations in 7 CFR part 331, contact Dr. Robert Flanders, Chief, Pest Permit Evaluations Branch, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236, (301) 734–8758.

For information concerning the regulations in 9 CFR part 121, contact Dr. Denise Spencer, Senior Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231, (301) 734–3277.

**SUPPLEMENTARY INFORMATION:**

### Background

On June 12, 2002, the President signed into law the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Pub. L. 107–188). Title II of Pub. L. 107–188, ''Enhancing Controls on Dangerous Biological Agents and Toxins'' (sections 201 through 231), provides for the regulation of certain biological agents and toxins by the Department of Health and Human Services (subtitle A, sections 201–204) and the Department of Agriculture (subtitle B, sections 211–213, cited as the ''Agricultural Bioterrorism Protection Act of 2002''), and provides for interagency coordination between the two departments regarding overlap agents and toxins (subtitle C, section 221). For the Department of Health and Human Services, the Centers for Disease Control and Prevention (CDC) has been designated as the agency with primary responsibility for implementing the provisions of the Act; the Animal and Plant Health Inspection Service (APHIS) is the agency fulfilling that role for the Department of Agriculture. The Criminal Justice Information Services (CJIS) Division of the Federal Bureau of Investigation has been designated as the agency with primary responsibility for implementing the Attorney General's responsibilities under the Act (*i.e.*, the security risk assessments).

In accordance with the requirements of the Act, on December 13, 2002, we published in the **Federal Register** (67 FR 76908–76938, Docket No. 02–088–1) an interim rule that established the standards and procedures governing the possession, use, and transfer of biological agents and toxins that have been determined to have the potential to pose a severe threat to both human and animal health (referred to as overlap agents and toxins), to animal health, to plant health, or to animal and plant products (7 CFR part 331 for the plant-related provisions and 9 CFR part 121 for the overlap and animal-related provisions; referred to below collectively as the regulations). Also on December 13, 2002, the CDC published in the **Federal Register** (67 FR 76886–76905) an interim rule that established the standards and procedures governing the possession, use, and transfer of other select agents (42 CFR part 73).

The regulations require that individuals or entities possessing, using, or transferring biological agents or toxins listed in 7 CFR 331.3 or 9 CFR 121.3(d) must register with APHIS, while individuals or entities possessing, using, or transferring overlap agents or toxins must register with either APHIS or CDC. As part of the registration process, the responsible official(s), the alternate responsible official(s), the entity, and, where applicable, the individual(s) who owns or controls the entity must undergo a security risk assessment by the CJIS Division. Moreover, those individuals identified

by an entity as having a legitimate need to handle or use listed biological agents or toxins must undergo a security risk assessment by the CJIS Division.

To minimize the disruption of research or educational projects involving biological agents or toxins that were underway as of the effective date of the regulations, we established a phase-in period that gave individuals and entities until November 12, 2003 to reach full compliance with the regulations. In recognition of the potential delays in registering entities under these regulations during the first year of implementation and the potential for subsequent delays in research, we also afforded additional time to reach full compliance with the regulations to individuals and entities who did not possess biological agents or toxins as of the effective date of the interim rule (February 11, 2003). Specifically, we required that such individuals and entities must be in compliance with the provisions of the regulations that are applicable for current possessors at the time of application, as provided in 7 CFR 331.0 or 9 CFR 121.0.

To date, the CJIS Division has received a large number of incomplete applications. [1] We anticipate that many of these applications will be completed and submitted to the CJIS Division just before the November 12, 2003 deadline. Because of the expected volume of last-minute submissions, the CJIS Division will need additional time to complete the necessary security risk assessments.

We are aware that many individuals and entities submitted all required information in a timely manner to ensure that it was received by the CJIS Division by November 12, 2003. In recognition of this good faith effort to comply with the regulations, and so as not to disrupt research and educational programs involving listed biological agents and toxins, we are amending the regulations to allow for the issuance of provisional registration certificates for individuals and entities and provisional grants of access to biological agents and toxins for individuals pending the completion of their security risk assessments.

To accomplish this, we are amending 7 CFR 331.0 and 9 CFR 121.0 to provide that APHIS may issue a provisional registration certificate to current possessors if, as of November 12, 2003: (1) The Attorney General has received all of the information, including fingerprint cards, required by the Attorney General to conduct a security risk assessment of the entity, including any individual who owns or controls the entity; and (2) the entity otherwise meets all of the requirements of the regulations. In addition, we are amending both parts to provide that APHIS may issue a provisional registration certificate to individuals and entities that did not possess listed biological agents or toxins as of February 11, 2003, if, as of November 12, 2003: (1) The Attorney General has received all of the information, including fingerprint cards, required by the Attorney General to conduct a security risk assessment of the entity, including any individual who owns or controls the entity; (2) the entity otherwise meets all of the requirements of the regulations; and (3) the Administrator finds that circumstances warrant such action in the interest of the health of plants or plant products or national security (for the plant-related provisions in 7 CFR part 331) or the health of animals or animal products or national security (for the overlap and animal-related provisions in 9 CFR part 121). In either case, a provisional registration certificate will be effective until APHIS either issues a certificate of registration or suspends or revokes the provisional registration.

We are also amending both parts to provide that APHIS may issue a provisional grant of access for individuals identified by an entity as having a legitimate need to handle or use listed biological agents or toxins if, as of November 12, 2003, the Attorney General has received all of the information, including fingerprint cards, required by the Attorney General to conduct a security risk assessment of that individual. Such a provisional grant of access will be effective until APHIS grants or denies access to listed biological agents and toxins.

Since we expect the CJIS Division to receive a large volume of mail just before the November 12, 2003, deadline, the CJIS Division will likely need additional time to process its mail, and this may result in delays in the issuance of some provisional registration certificates and provisional grants of access.

For overlap agents and toxins, the regulations provide that an entity may submit all of the information and documentation required in the registration package to either APHIS or CDC. We note that the agency (either APHIS or CDC) that has the responsibility for processing an application for registration will be responsible for issuing a provisional registration certificate or provisional grant of access, as appropriate. If an entity has any questions about which agency is processing its registration application, the responsible official may contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

## Immediate Action

Immediate action is necessary in order to prevent the disruption of research and educational projects. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (*see* **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

### *Executive Order 12866 and Regulatory Flexibility Act*

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

This emergency situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

### *Executive Order 12372*

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR part 3015, subpart V.)

### *Executive Order 12988*

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not

[1] To avoid delays related to incomplete applications, individuals and entities should submit their FD–961 forms and fingerprint cards to the CJIS Division in one package. However, this does not apply to applicants who are submitting follow-up information or fingerprint cards for an existing incomplete application.

require administrative proceedings before parties may file suit in court challenging this rule.

*Paperwork Reduction Act*

This interim rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**List of Subjects**

*7 CFR Part 331*

Agricultural research, Laboratories, Plant diseases and pests, Reporting and recordkeeping requirements.

*9 CFR Part 121*

Agricultural research, Animal diseases, Laboratories, Medical research, Reporting and recordkeeping requirements.

■ Accordingly, we are amending 7 CFR part 331 and 9 CFR part 121 as follows:

7 CFR Chapter III

## PART 331—POSSESSION, USE, AND TRANSFER OF BIOLOGICAL AGENTS AND TOXINS

■ 1. The authority citation for part 331 continues to read as follows:

**Authority:** Secs. 211–213, Title II, Pub. L. 107–188, 116 Stat. 647 (7 U.S.C. 8401).

■ 2. Section 331.0 is revised as follows:

### § 331.0 Effective and applicability dates.

(a) The regulations in this part are effective on February 11, 2003. On and after that date, any person possessing, using, or transferring any agent or toxin listed in § 331.3 must be in compliance with the provisions of this part. However, so as not to disrupt research or educational projects involving listed agents or toxins that were underway as of the effective date of this part, any person possessing such agents or toxins as of the effective date (current possessors) will be afforded additional time to reach full compliance with this part. Any provision not specifically cited in paragraphs (a)(1) through (a)(6) of this section will be applicable as of February 11, 2003. In addition, any individual or entity who does not possess listed agents or toxins by the effective date of this part, but who wishes to initiate a research or educational project prior to November 12, 2003, must be in compliance with the provisions of this part that are applicable for current possessors at the time of application, as provided in paragraphs (a)(1) through (a)(5) of this section.

(1) During the period from February 11, 2003, to November 12, 2003, biological agents or toxins listed in § 331.3 may only be transferred to an individual or entity that is not registered under this part if the individual or entity has been issued a permit by the Administrator under part 330 of this chapter to import or move interstate that specific agent or toxin. If an individual or entity has not been issued a permit under part 330 of this chapter, the individual or entity may apply for a permit. To receive an agent or toxin, an individual or entity will also be required to submit APHIS Form 2041, in accordance with § 331.13(c). Because USDA permits do not cover intrastate movement, an individual or entity may not receive a listed agent or toxin that is being moved intrastate until that individual or entity is registered in accordance with this part.

(2) By March 12, 2003, the responsible official must submit the registration application package as required in § 331.8. In addition, the responsible official must submit to the Attorney General the names and identifying information for the responsible official; alternate responsible official, where applicable; entity; and, where applicable, the individual who owns or controls the entity.

(3) By April 11, 2003, the responsible official must submit to the Attorney General the names and identifying information for all individuals whom the responsible official has identified as having a legitimate need to handle or use listed agents or toxins, and who have the appropriate training and skills to handle such agents or toxins, as required in § 331.10.

(4) By June 12, 2003, the responsible official must submit to APHIS the security section of the Biocontainment and Security Plan required in § 331.11.

(5) By September 12, 2003, the responsible official must implement the security section of the Biocontainment and Security Plan, as required in § 331.11, and provide security training in accordance with 7 CFR 331.12.

(6) By November 12, 2003, the registration application process must be complete and the entity in full compliance with the regulations in this part, except as otherwise provided in paragraphs (b) and (c) of this section.

(b) *Provisional registration.* (1) Notwithstanding the provisions in paragraph (a) of this section, APHIS may issue a provisional registration certificate to current possessors if, as of November 12, 2003:

(i) The Attorney General has received all of the information, including fingerprint cards, required by the Attorney General to conduct a security risk assessment of the entity, including any individual who owns or controls the entity; and

(ii) The entity otherwise meets all of the requirements of this part.

(2) Notwithstanding the provisions in paragraph (a) of this section, APHIS may issue a provisional registration certificate to individuals and entities that did not possess listed biological agents or toxins as of February 11, 2003, if, as of November 12, 2003:

(i) The Attorney General has received all of the information, including fingerprint cards, required by the Attorney General to conduct a security risk assessment of the entity, including any individual who owns or controls the entity;

(ii) The entity otherwise meets all of the requirements of this part; and

(iii) The Administrator finds that circumstances warrant such action in the interest of the health of plants or plant products or national security.

(3) A provisional registration certificate will be effective until APHIS either issues a certificate of registration or suspends or revokes the provisional registration.

(c) Notwithstanding the provisions in paragraph (a) of this section, APHIS may issue a provisional grant of access for individuals identified by an entity as having a legitimate need to handle or use agents or toxins listed in § 331.3 if, as of November 12, 2003, the Attorney General has received all of the information, including fingerprint cards, required by the Attorney General to conduct a security risk assessment of that individual. A provisional grant of access will be effective until APHIS grants or denies access to biological agents or toxins listed in § 331.3.

9 CFR Chapter 1

## PART 121—POSSESSION, USE, AND TRANSFER OF BIOLOGICAL AGENTS AND TOXINS

■ 1. The authority citation for part 121 continues to read as follows:

**Authority:** Secs. 211–213, Title II, Pub. L. 107–188, 116 Stat. 647 (7 U.S.C. 8401).

■ 2. Section 121.0 is revised as follows:

### § 121.0 Effective and applicability dates.

(a) The regulations in this part are effective on February 11, 2003. On and after that date, any person possessing, using, or transferring any agent or toxin listed in § 121.3 must be in compliance with the provisions of this part. However, so as not to disrupt research or educational projects involving listed agents or toxins that were underway as of the effective date of this part, any person possessing such agents or toxins

as of the effective date (current possessors) will be afforded additional time to reach full compliance with this part. Any provision not specifically cited in paragraphs (a)(1) through (a)(6) of this section will be applicable as of February 11, 2003. In addition, any person who does not possess listed agents or toxins by the effective date of this part, but who wishes to initiate a research or educational project prior to November 12, 2003, must be in compliance with the provisions of this part that are applicable for current possessors at the time of application, as provided in paragraphs (a)(1) through (a)(5) of this section.

(1) During the period from February 11, 2003, to November 12, 2003, biological agents or toxins listed in § 121.3 may only be transferred to an individual or entity that is not registered under this part if:

(i) The individual or entity is registered by CDC for that specific overlap agent or toxin in accordance with 42 CFR part 72; or

(ii) The individual or entity has been issued a permit by the Administrator under part 122 of this subchapter to import or move interstate that specific agent or toxin. If an individual or entity has not been issued a permit under part 122 of this subchapter, the individual or entity may apply for a permit. To receive an agent or toxin, an individual or entity will also be required to submit APHIS Form 2041, in accordance with § 121.14(c). Because USDA permits do not cover intrastate movement, unless registered by CDC under 42 CFR part 72, an individual or entity may not receive a listed agent or toxin that is being moved intrastate until that individual or entity is registered in accordance with this part.

(2) By March 12, 2003, the responsible official must submit the registration application package as required in § 121.9. In addition, the responsible official must submit to the Attorney General the names and identifying information for the responsible official; alternate responsible official, where applicable; entity; and, where applicable, the individual who owns or controls the entity.

(3) By April 11, 2003, the responsible official must submit to the Attorney General the names and identifying information for all individuals whom the responsible official has identified as having a legitimate need to handle or use listed agents or toxins, and who have the appropriate training and skills to handle such agents or toxins, as required in § 121.11.

(4) By June 12, 2003, the responsible official must submit the security section of the Biosafety and Security Plan required in § 121.12 to APHIS or, for overlap agents or toxins, to APHIS or CDC.

(5) By September 12, 2003, the responsible official must implement the security section of the Biosafety and Security Plan, as required in § 121.12, and provide security training in accordance with 9 CFR 121.13.

(6) By November 12, 2003, the registration application process must be complete and the entity in full compliance with the regulations in this part, except as otherwise provided in paragraphs (b) and (c) of this section.

(b) *Provisional registration.* (1) Notwithstanding the provisions in paragraph (a) of this section, APHIS may issue a provisional registration certificate to current possessors if, as of November 12, 2003:

(i) The Attorney General has received all of the information, including fingerprint cards, required by the Attorney General to conduct a security risk assessment of the entity, including any individual who owns or controls the entity; and

(ii) The entity otherwise meets all of the requirements of this part.

(2) Notwithstanding the provisions in paragraph (a) of this section, APHIS may issue a provisional registration certificate to individuals and entities that did not possess listed biological agents or toxins as of February 11, 2003, if, as of November 12, 2003:

(i) The Attorney General has received all of the information, including fingerprint cards, required by the Attorney General to conduct a security risk assessment of the entity, including any individual who owns or controls the entity;

(ii) The entity otherwise meets all of the requirements of this part; and

(iii) The Administrator finds that circumstances warrant such action in the interest of the health of plants or plant products or national security.

(3) A provisional registration certificate will be effective until APHIS either issues a certificate of registration or suspends or revokes the provisional registration.

(c) Notwithstanding the provisions in paragraph (a) of this section, APHIS may issue a provisional grant of access for individuals identified by an entity as having a legitimate need to handle or use agents or toxins listed in § 121.3 if, as of November 12, 2003, the Attorney General has received all of the information, including fingerprint cards, required by the Attorney General to conduct a security risk assessment of that individual. A provisional grant of access will be effective until APHIS grants or denies access to biological agents or toxins listed in § 121.3.

Done in Washington, DC, this 29th day of October, 2003.

**Bobby R. Acord,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 03–27640 Filed 10–31–03; 8:45 am]

BILLING CODE 3410–34–P

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## DEPARTMENT OF AGRICULTURE

## Farm Service Agency

## 7 CFR Parts 762 and 764

## Rural Housing Service

## Rural Business-Cooperative Service

## Rural Utilities Service

## 7 CFR Parts 1910, 1924, 1941, 1943 and 1955

**RIN 0560–AG99**

## Technical Changes to Citizenship Requirements and Loan Eligibility Regulations

**AGENCIES:** Farm Service Agency, Rural Housing Service, Rural Business-Cooperative Service, and Rural Utilities Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Farm Service Agency's (FSA) regulations for direct and guaranteed loan making requirements by revising loan eligibility requirements to conform with provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). In addition, it amends the direct and guaranteed loan program regulations to implement statutory provisions of the Consolidated Farm and Rural Development Act (CONACT).

**DATES:** This rule is effective November 3, 2003.

**FOR FURTHER INFORMATION CONTACT:** Janet Downs, Senior Loan Officer, USDA, FSA, Farm Loan Programs, Loan Making Division, STOP 0522, 1400 Independence Avenue, SW., Washington, DC 20250–0522; Telephone: (202) 720–0599, e-mail: *Janet_Downs@wdc.usda.gov.* Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

**SUPPLEMENTARY INFORMATION:**

**Notice and Comment**

This rule is not being published for public notice or to solicit comment from interested parties as a proposed rule. It implements precise statutory requirements of both the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (8 U.S.C. 1611, 1641) and the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1921 *et.seq.*), where the Agency has little or no leeway in terms of policy interpretation. Thus, the Agency is not required by 5 U.S.C. 553 to publish a notice of proposed rulemaking for its interpretive policy. This rule is published as final and is effective immediately.

**Executive Order 12866**

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

**Regulatory Flexibility Act**

In compliance with the Regulatory Flexibility Act, Public Law 96–534, (5 U.S.C. 601), FSA has determined that this rule will not have a significant economic impact on a substantial number of small entities. FLP applicants and borrowers are predominantly family-size farmers and ranchers and, as defined by the U.S. Small Business Administration, approximately 98 percent of all farmers are classified as small businesses. The provisions in this rule will not impact a substantial number of small entities to a greater extent than large entities. The intent of this rule is to implement legislation and makes non-substantive updates. Large entities are subject to these rules to the same extent as small entities. Therefore, a regulatory flexibility analysis was not performed.

**Environmental Evaluation**

The environmental impacts of this final rule have been considered in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA, 7 CFR parts 799, and 1940, subpart G. FSA completed an environmental evaluation and concluded that the rule requires no further environmental review. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement. A copy of the environmental evaluation is available for inspection and review upon request.

**Executive Order 12988**

This final rule has been reviewed in accordance with Executive Order 12988. This rule preempts State laws to the extent any laws are inconsistent with it, and its provisions are not retroactive. Before legal action may be brought concerning this rule, administrative remedies under 7 CFR part 11 must be exhausted.

**Executive Order 13132**

The policies contained in this rule do not have any 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. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

**Unfunded Mandates**

The rule contains no Federal mandates, as defined by title II of the UMRA. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

**Paperwork Reduction Act**

The Agency's information collection requirements, currently approved under OMB control numbers 0560–0154, 0560–0155, 0560–0157, 0560–0159, 0560–0162, 0560–0167, and 0560–0178, are not affected by this final rule.

**Federal Assistance Programs**

The titles and numbers of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this final rule applies are:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans

**Discussion of the Final Rule**

*Individual Citizenship Requirements*

To be eligible for FSA Farm Loan Programs (FLP) loans, FSA regulations provide that an applicant must be a citizen of the United States or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; indefinite parolees are not eligible for loans. This rule changes FLP direct and guaranteed loan eligibility provisions to require an applicant be a United States citizen, a United States non-citizen national, or a qualified alien under applicable Federal immigration laws. This revision is necessary to reflect changes made by section 401 of the PRWORA (8 U.S.C. 1611) prohibiting aliens who are not qualified aliens from receiving Federal public benefits such as Federal loans.

*Entity Citizenship Requirements*

PRWORA requirements similarly are adopted for entity citizenship requirements for direct and guaranteed FLP loans. These regulations are amended to consistently require the majority interest of the entity to be held by members who are United States citizens, United States non-citizen nationals, or qualified aliens under applicable Federal immigration laws. These changes implement CONACT program requirements that for an entity applicant to be eligible for a farm programs loan, individuals holding a majority interest of such entity must be citizens of the United States. See 7 U.S.C. 1922, 1941, and 1961.

In addition, FSA regulations require that aliens must provide the appropriate forms from the Bureau of Citizenship and Immigration Services of the Department of Homeland Security (BCIS) to document their permanent residency. This rule updates these provisions to require that United States non-citizen nationals and qualified aliens must provide the appropriate documentation as to their immigration status, as required by the BCIS. This revision further implements section 401 of the PRWORA.

*Prohibition to Finance Non-Farm Enterprises*

This rule amends FSA regulations to clarify that direct farm operating and farm ownership loan funds cannot be used to finance non-farm enterprises. This rule adds limitations in 7 CFR 1941.17 and 1943.17 and removes 7 CFR 1941.23(b)(3) accordingly.

*Clarify Definition of Socially Disadvantaged*

Section 355 of the CONACT defines a ''socially disadvantaged group'' as a ''group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.'' This rule amends FSA regulations 7 CFR 1943.4 and 1955.103 to clarify that the term ''socially disadvantaged applicant'' refers to an applicant who is a member of a socially disadvantaged group.

*Borrower Eligibility*

Section 373(b) of the CONACT, in part, allows FSA to make annual operating loans to borrowers who have had debt forgiveness and who are

current on payments under a confirmed reorganization plan under chapters 11, 12, or 13 of Title 11 of the United States Code. Section 373(a) also prohibits direct operating loans to any borrower who is delinquent on any loan made or guaranteed under the CONACT. This prohibition partially overlaps with the Debt Collection Improvement Act (DCIA) provision, 31 U.S.C. 3720B, making persons owing a delinquent non-tax debt to the Federal Government ineligible for Federal financial assistance in the form of a loan (other than a disaster loan) or loan insurance or guarantee. The DCIA provision is implemented by regulations at 31 CFR part 285. This rule amends FSA farm operating loan eligibility regulation, 7 CFR 1941.12, to reflect these statutory requirements. Reference to annual production loans to delinquent borrowers in 7 CFR 1941.33 also is removed for consistency.

*Miscellaneous*

This rule amends an incorrect reference in FSA regulation, 7 CFR 1941.18, to allow equal, unequal, or balloon installment schedules on loans made for other than annual operating purposes. This rule also removes from 7 CFR part 1924, subpart B, the definition of ''Financially viable operation'', as it is unnecessary. References to required borrower training for guaranteed loan borrowers are also removed as section 805 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Pub. L. 105–277, October 21, 1998) removed the borrower training requirement for guaranteed farm loans. This rule removes references to an obsolete form (FmHA 440–35) from 7 CFR part 1943, subpart A. This rule corrects a duplicate reference to § 1910.4(i) by revising the second (i) reference to read (j).

**List of Subjects**

*7 CFR Part 762*

Agriculture, Loan programs—agriculture.

*7 CFR Part 764*

Agriculture, Disaster assistance, Loan programs—agriculture.

*7 CFR Part 1910*

Agriculture, Loan programs—agriculture.

*7 CFR Part 1924*

Agriculture, Loan programs—agriculture.

*7 CFR Part 1941*

Crops, Livestock, Loan programs—agriculture, Rural areas, Youth.

*7 CFR Part 1943*

Crops, Loan programs—agriculture, Recreation, Water resources.

*7 CFR Part 1955*

Agriculture, Loan programs—agriculture, Property management, Government property.

Accordingly, 7 CFR Chapters VII and XVIII are amended as follows:

## PART 762—GUARANTEED FARM LOANS

■ 1. The authority citation for part 762 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1989.

■ 2. Revise § 762.120(d) to read as follows:

### § 762.120 Loan applicant eligibility.

* * * * *

(d) *Citizenship.* (1) The applicant must be a citizen of the United States, a United States non-citizen national, or a qualified alien under applicable Federal immigration laws. For an entity applicant, the majority interest of the entity must be held by members who are United States citizens, United States non-citizen nationals, or qualified aliens under applicable Federal immigration laws.

(2) United States non-citizen nationals and qualified aliens must provide the appropriate documentation as to their immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.

* * * * *

## PART 764—EMERGENCY FARM LOANS

■ 3. The authority citation for part 764 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1989.

■ 4. Revise § 764.4(a)(2) to read as follows:

### § 764.4 Eligibility requirements.

(a) * * *

(2) *Citizenship.* (i) The applicant must be a citizen of the United States, a United States non-citizen national, or a qualified alien under applicable Federal immigration laws. For an entity applicant, the majority interest of the entity must be held by members who are United States citizens, United States non-citizen nationals, or qualified aliens under applicable Federal immigration laws.

(ii) United States non-citizen nationals and qualified aliens must provide the appropriate documentation as to their immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.

* * * * *

## PART 1910—GENERAL

■ 5. The authority citation for part 1910 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

### Subpart A—Receiving and Processing Applications

### § 1910.4 [Amended]

■ 6. Amend § 1910.4 by redesignating the second paragraph (i) as paragraph (j).

## PART 1924—CONSTRUCTION AND REPAIR

■ 7. The authority citation for part 1924 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

### Subpart B—Management Advice to Individual Borrowers and Applicants

### § 1924.54 [Amended]

■ 8. In § 1924.54 remove the definition of ''Financially viable operation''.

■ 9. In § 1924.74 revise the second sentence of paragraph (a)(2) to read as follows:

### § 1924.74 Borrower training program.

(a) * * *

(2) * * * Unless waived, this training requirement will be an eligibility requirement for all Agency direct loans. * * *

* * * * *

## PART 1941—OPERATING LOANS

■ 10. The authority citation for part 1941 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1989.

### Subpart A—Operating Loan Policies, Procedures, and Authorizations

■ 11. Revise paragraphs (a)(1), (b)(5)(i), the last sentence of paragraphs (a)(8) and (b)(11), and the first sentence of paragraphs (a)(9) and (b)(12) of § 1941.12, to read as follows:

### § 1941.12 Eligibility requirements.

(a) * * *

(1) Be a citizen of the United States, a United States non-citizen national, or a qualified alien under applicable

Federal immigration laws. United States non-citizen nationals and qualified aliens must provide the appropriate documentation as to their immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.

* * * * *

(8) * * * However, an applicant who received a write-down under section 353 of the CONACT, or who is current on payments under a confirmed reorganization plan under chapters 11, 12, or 13 of Title 11 of the United States Code, may receive direct and guaranteed OL loans to pay annual farm and ranch operating expenses, including family subsistence, if the applicant meets all other eligibility requirements.

(9) Not be delinquent on any non-tax Federal debt or FSA guaranteed debt. * * *

* * * * *

(b) * * *

(5) * * *

(i) The majority interest of the entity must be held by members who are citizens of the United States, United States non-citizen nationals, or qualified aliens under applicable Federal immigration laws. United States non-citizen nationals and qualified aliens must provide the appropriate documentation as to their immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.

* * * * *

(11) * * * However, an applicant who received a write down under section 353 of the CONACT, or who is current on payments under a confirmed reorganization plan under chapters 11, 12, or 13 of Title 11 of the United States Code, may receive direct and guaranteed OL loans to pay annual farm and ranch operating expenses, including family subsistence, if the applicant meets all other eligibility requirements.

(12) Not be delinquent on any non-tax Federal debt or FSA guaranteed debt. * * *

* * * * *

■ 12. Amend § 1941.17 by adding paragraph (e) to read as follows:

**§ 1941.17 Loan limitations.**

* * * * *

(e) If the purpose of the loan is to finance a nonfarm enterprise.

* * * * *

**§ 1941.18 [Amended]**

■ 13. Amend the first sentence of § 1941.18(b)(4) by changing the reference to paragraph ''(b)(2)'' to read paragraph ''(b)(3)''.

**§ 1941.23 [Amended]**

■ 14. Amend § 1941.23 by removing paragraph (b)(3) and redesignating paragraph (b)(4) as (b)(3).

■ 15. Amend § 1941.33 by removing the second sentence of paragraph (c)(2) and by revising paragraph (b)(1)(iii) to read as follows:

**§ 1941.33 Loan approval or disapproval.**

* * * * *

(b) * * *

(1) * * *

(iii) The proposed loan is based on a feasible farm operating plan.

* * * * *

## PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION LOANS

■ 16. The authority citation for part 1943 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1989.

### Subpart A—Direct Farm Ownership Loan Policies, Procedures, and Authorizations

■ 17. Amend paragraph § 1943.4 by revising the definition of ''Socially disadvantaged applicant'' to read as follows:

**§ 1943.4 Definitions.**

* * * * *

*Socially disadvantaged applicant (SDA).* An applicant who is a member of a socially disadvantaged group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as a member of a group, without regard to their individual qualities. For entity SDA applicants, the majority interest in the entity must be held by socially disadvantaged individuals. The Agency has identified socially disadvantaged groups as Women, Blacks, American Indians, Alaskan Natives, Hispanics, Asians, and Pacific Islanders.

* * * * *

■ 18. Amend § 1943.12 by revising paragraphs (a)(1), (b)(4)(i), and the first sentence of paragraphs (a)(9) and (b)(11) to read as follows:

**§ 1943.12 Farm ownership loan eligibility requirements.**

* * * * *

(a) * * *

(1) Be a citizen of the United States, a United States non-citizen national, or a qualified alien under applicable Federal immigration laws. United States non-citizen nationals and qualified aliens must provide the appropriate documentation as to their immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.

* * * * *

(9) Not be delinquent on any non-tax Federal debt or FSA guaranteed debt.* * *

(b) * * *

(4) * * *

(i) For an entity applicant, the majority interest of the entity must be held by members who are United States citizens, United States non-citizen nationals, or qualified aliens under applicable Federal immigration laws. United States non-citizen nationals and qualified aliens must provide the appropriate documentation as to their permanent immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.

* * * * *

(11) Not be delinquent on any non-tax Federal debt or FSA guaranteed debt.* * *

* * * * *

■ 19. Amend § 1943.17 paragraph (a)(2) by removing the words ''and nonfarm enterprise'' and by adding paragraph (c) to read as follows:

**§ 1943.17 Loan limitations.**

* * * * *

(c) The purpose of the loan is to finance a nonfarm enterprise.

■ 20. Amend § 1943.34 by revising the section title, removing paragraph (c), and revising paragraphs (a) and (b) to read as follows:

**§ 1943.34 Requesting title service.**

(a) Title clearance will be obtained as provided in subpart B of part 1927 of this chapter, when required by the Agency.

(b) When the loan is approved, the applicant will arrange with the seller to take possession of the land that is being acquired.

## PART 1955—PROPERTY MANAGEMENT

■ 21. The authority citation for part 1955 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

### Subpart C—Disposal of Inventory Property

■ 22. Amend § 1955.103 by revising the definition of ''Socially disadvantaged applicant'' to read as follows:

**§ 1955.103 Definitions.**

* * * * *

*Socially disadvantaged applicant (SDA).* An applicant who is a member of a socially disadvantaged group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as a member of a group, without regard to their individual qualities. For entity SDA applicants, the majority interest in the entity must be held by socially disadvantaged individuals. The Agency has identified socially disadvantaged groups as Women, Blacks, American Indians, Alaskan Natives, Hispanics, Asians, and Pacific Islanders.

* * * * *

Dated: October 27, 2003.

**J.B. Penn,**

*Under Secretary for Farm and Foreign Agricultural Services.*

Dated: October 28, 2003.

**Thomas C. Dorr,**

*Under Secretary for Rural Development.*

[FR Doc. 03–27589 Filed 10–31–03; 8:45 am]

BILLING CODE 3410–05–P

## DEPARTMENT OF AGRICULTURE

## Animal and Plant Health Inspection Service

## 9 CFR Part 71

**[Docket No. 02–069–2]**

## Interstate Movement of Swine Within a Production System; Inspection of Swine

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations pertaining to the interstate movement of swine by limiting the requirement for mandatory veterinary inspections, at intervals of 30 days or less, to swine that are or will be in the process of moving interstate within a swine production system and to the premises on which such swine are housed. With this change, swine that have arrived at a finishing house or other final destination within a single swine production system will no longer be required to undergo veterinary inspections at intervals of 30 days or less. In order to ensure that finishing house animals will still undergo regular health monitoring, swine that have completed their interstate movement within the swine production system, as well as the premises on which they are housed, will have to be inspected in accordance with State regulations. This rule reduces the frequency of veterinary inspections for swine that have completed their interstate movement within a single swine production system without diminishing the effectiveness of our swine-disease monitoring and surveillance activities.

**EFFECTIVE DATE:** November 3, 2003.

**FOR FURTHER INFORMATION CONTACT:** Dr. Adam Grow, Senior Staff Veterinarian, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–7708.

**SUPPLEMENTARY INFORMATION:**

### Background

The regulations in subchapter C of chapter I, title 9, Code of Federal Regulations, govern the interstate movement of animals and animal products to prevent the dissemination of livestock and poultry diseases in the United States. Part 71 of subchapter C (referred to below as the regulations) includes, among other things, requirements for the identification and inspection of swine being moved interstate.

On May 23, 2003, we published in the **Federal Register** (68 FR 28167–28168, Docket No. 02–069–1) a proposal to amend the regulations to allow for greater flexibility in health inspections of swine that have completed their movement within a swine production system. Specifically, we proposed to amend our definition of *swine production health plan* in § 71.1 by limiting the requirement for mandatory veterinary inspections, at intervals of 30 days or less, to swine that are or will be in the process of moving interstate within a swine production system and to the premises on which such swine are housed. Under our proposed rule, the swine production health plan would have to provide for health monitoring, including inspection by the swine production system accredited veterinarian(s), of all swine within the system. The required frequency of inspections would vary according to the nature of the premises and the swine that populate them. Inspections of premises that contain swine that are or will be in the process of moving interstate within the swine production system and of all swine on those premises would still have to be conducted by the accredited veterinarian(s) at intervals of no greater than 30 days. Inspections of premises containing only swine that have completed their interstate movement within a single swine production system and of all swine on those premises would have to be conducted in accordance with State regulations.

The proposed rule was intended to allow for greater flexibility in health monitoring within a swine production system without diminishing the effectiveness of our swine-disease monitoring and surveillance activities.

We solicited comments concerning our proposal for 60 days ending July 22, 2003. We received three comments by that date. They were from a veterinary association and pork producers' associations. All three commenters favored the proposed rule.

Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

### Miscellaneous

While we are adopting the proposed rule as a final rule without change, we are making three minor editorial changes to the regulations in part 71 in this final rule. First, in § 71.3(c), we are correcting an outdated reference to certain provisions of the tuberculosis regulations in part 77. Those provisions had been contained in § 77.5, but in a final rule published in the **Federal Register** on October 23, 2000 (65 FR 63502–63533, Docket No. 99–038–5), were moved to § 77.17. The reference in § 71.3(c) to those provisions should have been updated at that time, but was not; we are correcting that oversight in this final rule. The other two changes we are making simply correct the numbering of footnotes found in §§ 71.18 and 71.20.

### Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

This rule limits the requirement for mandatory veterinary inspections, at intervals of 30 days or less, to swine that are or will be in the process of moving interstate within a swine production system and to the premises on which such swine are housed. By reducing the frequency of required veterinary inspections for swine that have completed their interstate movement within a single swine production system, this final rule eases the burden on swine producers, particularly those involved in the operation of swine finishing houses or other final receiving destinations in swine production systems. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be made effective upon publication in the **Federal Register**.

**Executive Order 12866 and Regulatory Flexibility Act**

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

This final rule removes a requirement in § 71.1 for veterinary inspections, at intervals no greater than 30 days, of swine that have already completed their interstate movement within a swine production system.

The entities likely to be affected by this final rule are swine owners and swine finishing houses or other final receiving destinations in swine production systems. Data from the 1997 Census of Agriculture suggest that approximately 109,754 swine farms may be affected, and that 98 percent of these swine farms can be classified as small entities under the Small Business Administration criterion of $750,000 or less in revenue per year.[1]

The overall economic impact of this rule is likely to be positive but small. Swine operations will be able to forgo certain costs of inspections at the finishing houses or other final receiving premises in the swine production system. The annual savings that may be realized by each swine operation are difficult to estimate because many of the accredited veterinarians who perform the inspections are held under a retainer and perform other services for the swine operation. However, this rulemaking will allow the time and resources of the accredited veterinarian to be redirected to other issues at the finishing houses or other receiving premises, like caring for sick animals, thereby benefitting swine owners.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

**Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

**Executive Order 12988**

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**List of Subjects in 9 CFR 71**

Animal diseases, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 9 CFR part 71 as follows:

## PART 71—GENERAL PROVISIONS

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

**Authority:** 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 2. In § 71.1, in the definition of *swine production health plan,* in the second paragraph, the first sentence is removed and four new sentences are added in its place to read as follows:

**§ 71.1 Definitions.**

* * * * *

*Swine production health plan.* * * * The plan must identify all premises that are part of the swine production system and that receive or send swine in interstate commerce and must provide for health monitoring of all swine within the system. Such health monitoring must include inspections by the swine production system accredited veterinarian(s). Inspections of all identified premises that contain swine that are or will be in the process of moving interstate within the swine production system and of all swine on those premises must be conducted by the accredited veterinarian(s) at intervals of no greater than 30 days. Inspections of all identified receiving premises that contain only swine that have completed their interstate movement within a single swine production system and of all swine on those premises must be conducted in accordance with State regulations. * * *

* * * * *

**§ 71.3 [Amended]**

■ 3. In § 71.3, paragraph (c)(3), the citation ''§ 77.5'' is removed and the citation ''§ 77.17'' is added in its place.

**§ 71.18 [Amended]**

■ 4. In § 71.18, paragraph (a)(5), redesignate footnote 2 as footnote 6.

**§ 71.20 [Amended]**

■ 5. In § 71.20, paragraph (a), redesignate footnote 6 as footnote 7.

Done in Washington, DC, this 28th day of October, 2003.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 03–27540 Filed 10–31–03; 8:45 am]

BILLING CODE 3410–34–P

[1] 1997 Census of Agriculture, Hogs and Pigs Inventory (*http://www.nass.usda.gov*).

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## DEPARTMENT OF AGRICULTURE

## Animal and Plant Health Inspection Service

## 9 CFR Part 130

**[Docket No. 02–041–2]**

## Veterinary Services User Fees; Fee for Use of Animal Ramp at Miami International Airport

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations to establish a user fee for a Government-owned ramp at Miami International Airport used to move animals off of and onto airplanes. Prior to the establishment of this user fee, we were able to recover the cost of labor in supervising and assisting importers and exporters in the ramp's use through existing user fees, but we had to absorb all other costs associated with the ramp. The new user fee will ensure that we recover costs incurred by the ramp's purchase and use and will shift the cost of the ramp to those who receive benefits from its use.

**EFFECTIVE DATE:** December 3, 2003.

**FOR FURTHER INFORMATION CONTACT:** For information concerning program operations for Veterinary Services, contact Ms. Inez Hockaday, Director, Management Support Staff, VS, APHIS, 4700 River Road Unit 44, Riverdale, MD 20737–1231, (301) 734–7517.

For information concerning rate development of the user fee, contact Mrs. Kris Caraher, Accountant, User Fees Section, Financial Management Division, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232, (301) 734–8351.

**SUPPLEMENTARY INFORMATION:**

### Background

User fees to reimburse the Animal and Plant Health Inspection Service (APHIS)

for the costs of providing veterinary diagnostic services and import- and export-related services for live animals and birds and animal products are contained in 9 CFR part 130 (referred to below as the regulations). APHIS receives no directly appropriated funds to provide these services; our ability to provide them depends on user fees.

On May 12, 2003, we published in the **Federal Register** (68 FR 25308–25310, Docket No. 02–041–1) a proposal to amend the regulations by establishing a user fee for a Government-owned ramp at Miami International Airport used to move animals off of and onto airplanes. We solicited comments concerning our proposal for 60 days ending July 11, 2003. We received one comment by that date, from a private citizen. This commenter supported the proposed user fee but requested that funds collected from the proposed user fee be used to construct a quarantine station.

User fees are intended to reimburse APHIS for the costs of providing the specific services for which they are charged. Using the fee for the use of the animal ramp at Miami International Airport for any purpose other than reimbursing APHIS for the cost of the operation of that animal ramp would therefore be inappropriate. We are making no changes in response to this comment.

**Note:** In the proposed rule that preceded this action, we proposed to add the paragraph detailing the new animal ramp user fee to § 130.8, ''User fees for other services.'' We have determined that the new fee would be more appropriately placed in § 130.2, which contains fees for certain animals and birds quarantined in APHIS-owned or -operated quarantine facilities. For this reason, in this final rule, we are adding the user fee for the animal ramp at Miami International Airport to § 130.2 as a new paragraph (d) and changing the heading of that section to read ''User fees for individual animals and certain birds quarantined in APHIS-owned or -operated quarantine facilities, including APHIS Animal Import Centers; and fee for use of animal ramp.''

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the change discussed above.

## Executive Order 12866 and Regulatory Flexibility Act

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

This final rule establishes a user fee of $151 for the animal ramp APHIS operates at Miami International Airport.

Though the fee is $151 per use regardless of the number of animals being moved across the ramp, in the past clients have moved, on average, approximately 50 animals per ramp use. Thus the average cost per animal for use of the ramp will be approximately $3. This is a negligible fee compared to the market value of the breeding animals and other upper-end livestock that are transported by air and that may be moved using the ramp. For example, the average import/export price per head of purebred cattle in 2001 was $1,186, while the price of purebred horses was $9,653. Our customers, usually brokers, are likely to pass this fee on to their clients.

This new user fee is also similar to the fees charged for the use of similar ramps elsewhere. For example, O'Hare International Airport in Chicago charges approximately $150 for use of its ramp, while one private horse-transporting entity charges approximately $800 for the use of the ramp it owns.

## Impact on Small Entities

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small entities. The Small Business Administration (SBA) has published criteria for determining which economic entities meet the definition of a small business. The entities affected by this new user fee are most likely to be brokers and livestock owners importing or exporting animals. The SBA considers an entity engaged in importing and exporting live animals, poultry, and birds to be small if its total sales are less than $5 million annually. The total revenue of livestock brokers who transport animals through Miami International Airport is not available, but we expect that a majority of these brokers can be classified as small entities. While the majority of entities affected by the new user fee may be small, this final rule is not expected to have a significant impact on them, due to the fact that the average fee per animal is quite small in comparison to the value of the livestock being transported.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

## Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

## Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

## Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

## List of Subjects in 9 CFR Part 130

Animals, Birds, Diagnostic reagents, Exports, Imports, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Tests.

■ Accordingly, we are amending 9 CFR part 130 as follows:

## PART 130—USER FEES

■ 1. The authority citation for part 130 continues to read as follows:

**Authority:** 5 U.S.C. 5542; 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 3701, 3716, 3717, 3719, and 3720A; 7 CFR 2.22, 2.80, and 371.4.

■ 2. Section 130.2 is amended as follows:

■ a. By revising the section heading to read as set forth below.

■ b. By adding a new paragraph (d) to read as set forth below.

### § 130.2 User fees for individual animals and certain birds quarantined in APHIS-owned or -operated quarantine facilities, including APHIS Animal Import Centers; and fee for use of animal ramp.

* * * * *

(d) *Animal ramp.* The user fee for the transport ramp used to move animals on or off aircraft at APHIS's Animal Import/Export and Plant Inspection Station at Miami International Airport is $151 per use. For labor services associated with the ramp, the hourly user fees in § 130.30 will apply.

Done in Washington, DC, this 28th day of October, 2003.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 03–27539 Filed 10–31–03; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

### 9 CFR Parts 319 and 381

**[Docket No. 01–032N]**

### Approving Ingredients Used in the Production of Meat and Poultry Products: Use of Any Safe and Suitable Binder or Antimicrobial Agent in Meat and Poultry Products With Standards of Identity or Composition

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Affirmation of effective date for direct final rule.

**SUMMARY:** On April 29, 2003, the Food Safety and Inspection Service (FSIS) published a direct final rule ''Approving Ingredients Used in the Production of Meat and Poultry Products: Use of Any Safe and Suitable Binder or Antimicrobial Agent in Meat and Poultry Products with Standards of Identity or Composition'' in the **Federal Register**. This direct final rule amended the Federal meat and poultry products inspection regulations to permit the use of any safe and suitable binder or antimicrobial agent in the production of meat and poultry products that are subject to a standard of identity or composition that provides for the use of such ingredients.

**EFFECTIVE DATE:** June 30, 2003.

**FOR FURTHER INFORMATION CONTACT:** Robert Post, Director, Labeling and Consumer Protection Staff, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700; (202) 205–0279.

**SUPPLEMENTARY INFORMATION:**

### Background

FSIS published a direct final rule, ''Approving Ingredients Used in the Production of Meat and Poultry Products: Use of Any Safe and Suitable Binder or Antimicrobial Agent in Meat and Poultry Products with Standards of Identity or Composition'' (68 FR 22576, 4/29/03). This direct final rule amended the Federal meat and poultry products inspection regulations by permitting the use of any safe and suitable binder or antimicrobial agent in the production of meat and poultry products that are subject to a standard of identity or composition that provides for the use of such ingredients. The use of these ingredients must be consistent with any limitations or conditions of use prescribed in applicable FSIS or Food and Drug Administration (FDA) regulations. On December 23, 1999, FSIS published in the **Federal Register**, a final rule entitled, ''Food Ingredients and Sources of Radiation Listed or Approved for Use in the Production of Meat and Poultry Products.'' The final rule provided a comprehensive background regarding the status of food ingredients and sources of radiation currently listed in titles 9 and 21 of the CFR, and explained the process by which FDA and FSIS would be working together regarding future requests for approvals of ingredients to be used in meat and poultry products, which are under USDA jurisdiction.

After publishing that rule, the two agencies entered into a memorandum of understanding that outlines the responsibilities of each Agency during the joint review of new ingredients or new uses of previously approved ingredients. Under the Federal Food, Drug and Cosmetic Act (FFDCA), FDA has the responsibility for determining the safety of ingredients. FSIS has authority under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) to determine whether new ingredients, or new uses of previously approved ingredients, are suitable for their intended use in meat and poultry products.

FSIS received no comments in response to the direct final rule published on April 29, 2003. Therefore, the amendments to the regulations will be effective on June 30, 2003.

### Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information contact the Congressional and Public Affairs Office, at (202) 720–9113. To be added to the free e-mail subscription service (Listserv) go to the ''Constituent Update'' page on the FSIS web site at *http://www.fsis.usda.gov/oa/update/update.htm*. Click on the ''Subscribe to the Constituent Update Listserv'' link, then fill out and submit the form.

Done at Washington, DC, on October 29, 2003.

**Garry L. McKee,**

*Administrator.*

[FR Doc. 03–27591 Filed 10–31–03; 8:45 am]

BILLING CODE 3410–DM–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 2003–NE–40–AD; Amendment 39–13357; AD 2003–22–09]**

**RIN 2120–AA64**

### Airworthiness Directives; Pratt & Whitney PW4074, PW4074D, PW4077, PW4077D, PW4084, PW4084D, PW4090, PW4090D, PW4090–3, and PW4098 Turbofan Engines

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for Pratt & Whitney PW4074, PW4074D, PW4077, PW4077D, PW4084, PW4084D, PW4090, PW4090D, PW4090–3, and PW4098 turbofan engines. This AD requires borescope inspection of the No. 3 bearing weep tube, on engines with high oil consumption that troubleshooting procedures fail to determine the source of oil loss. This AD also requires for all engines, initial and repetitive visual inspections of the turbine exhaust case (TEC) in the vicinity of the No 3 bearing oil vent tube for evidence of oil wetting or staining. If the vent tube borescope inspection is unsuccessful due to tube blockage, this AD also requires borescope inspections of the high pressure turbine (HPT) assembly for oil wetting or staining. This AD also requires removal of the HPT assembly and replacement of any heat distressed HPT assembly hardware if oil wetting or staining is found. This AD is prompted by reports of engine HPT assembly hardware being damaged as a result of thermal distress from oil

igniting after leaking from the No. 3 bearing compartment. We are issuing this AD to prevent thermal distressed HPT assembly hardware from remaining in service, which could result in a cracked HPT stage 1 disk or HPT stage 1–2 air seal and an uncontained engine failure.

**DATES:** Effective December 3, 2003. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of December 3, 2003.

We must receive any comments on this AD by January 2, 2004.

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

- By mail: The Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–NE–40–AD, 12 New England Executive Park, Burlington, MA 01803–5299.
- By fax: (781) 238–7055.
- By e-mail: *9-ane-adcomment@faa.gov.*

You can get the service information referenced in this AD from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–7700; fax (860) 565–1605.

You may examine the AD docket, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA. You may examine the service information, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Keith Lardie, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7189; fax (781) 238–7199.

**SUPPLEMENTARY INFORMATION:** The FAA is aware of seven reports of Pratt & Whitney PW4074, PW4074D, PW4077, PW4077D, PW4084, PW4084D, PW4090, PW4090D, PW4090–3, and PW4098 turbofan engines with HPT thermal distress caused by ignition of oil in cavities of the HPT assembly. This oil ignition was the result of oil leaking from the No. 3 bearing compartment. Five of those engines were approaching or exceeded high oil consumption limits. Four of the engines had distress resulting in significant damage to the HPT assembly. Over time, the increased temperatures from oil ignition can cause cracking of the HPT stage 1 disk anti-rotation lugs and HPT stage 1–2 air seal that may result in an uncontained engine failure. The root cause of the oil leakage is currently unknown. The manufacturer suspects the following three causes:

- Clogging of the oil passages on the No. 3 seal plates.
- Wear on the anti-rotation slots on the No. 3 carbon seal carriers.
- Loose stack of the No. 3 bearing compartment.

### Relevant Service Information

We have reviewed and approved the technical contents of Pratt & Whitney Alert Service Bulletin (ASB) No. PW4G–112–A72–257, Revision 1, dated August 22, 2003, that describes procedures for:

- Borescope inspection of the No. 3 bearing weep tube, on engines with high oil consumption that troubleshooting procedures fail to determine the source of oil loss.
- For all engines, initial and repetitive visual inspections of the TEC, in the vicinity of the No. 3 bearing oil vent tube assembly and borescope inspections of the No. 3 bearing oil vent tube assembly, for evidence of oil wetting or staining.
- Borescope inspection of the HPT assembly for evidence of oil wetting or staining if the borescope inspection of the No. 3 bearing oil vent tube assembly is unsuccessful due to blockage.
- Removal of the engine if oil wetting or staining is found.

### Differences Between This AD and the Service Information

Although ASB No. PW4G–112–A72–257, Revision 1, dated August 22, 2003, requires removal of the engine from service if oil wetting or staining is found, this AD requires removal of the HPT assembly and replacement of any heat distressed HPT assembly hardware if oil wetting or staining is found.

### FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other Pratt & Whitney PW4074, PW4074D, PW4077, PW4077D, PW4084, PW4084D, PW4090, PW4090D, PW4090–3, and PW4098 turbofan engines of the same type design. We are issuing this AD to prevent thermal distressed HPT assembly hardware to remain in service, which could result in a cracked HPT stage 1 disk or HPT stage 1–2 air seal and an uncontained engine failure. This AD requires:

- Borescope inspection of the No. 3 bearing weep tube on engines with high oil consumption that troubleshooting procedures fail to determine the source of oil loss.
- For all engines, initial and repetitive visual inspections of the TEC, in the vicinity of the No. 3 bearing oil vent tube assembly and borescope inspections of the No. 3 bearing oil vent tube assembly, for evidence of oil wetting or staining.
- Borescope inspections of the HPT assembly for oil wetting or staining, if the vent tube borescope inspection is unsuccessful due to tube blockage.
- Removal of the HPT assembly and replacement of any heat distressed HPT assembly hardware if oil wetting or staining is found.

You must use the service information described previously to perform the actions required by this AD.

### FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

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

On July 10, 2002, we issued a new version of 14 CFR part 39 (67 FR 47998, July 22, 2002), which governs our AD system. This regulation now includes material that relates to special flight permits, alternative methods of compliance, and altered products. 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.

### Interim Action

These actions are interim actions and we may take further rulemaking actions in the future, when the manufacturer's investigation is completed.

### Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES.** Include ''AD Docket No. 2003–NE–40–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 rule that might suggest a need to modify it. If a person contacts us verbally, and that contact relates to a substantive part of this 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 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 with 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.

### Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD 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.

For the reasons discussed above, I certify that the 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. 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.

We prepared a summary of the costs to comply with this AD 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–40–AD'' in your request.

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

■ Accordingly, under 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. The FAA amends § 39.13 by adding the following new airworthiness directive:

**2003–22–09 Pratt & Whitney:** Amendment 39–13357. Docket No. 2003–NE–40–AD.

#### Effective Date

(a) This airworthiness directive (AD) becomes effective December 3, 2003.

#### Affected ADs

(b) None.

*Applicability:* (c) This AD applies to Pratt & Whitney PW4074, PW4074D, PW4077, PW4077D, PW4084, PW4084D, PW4090, PW4090D, PW4090–3, and PW4098 turbofan engines. These engines are installed on, but not limited to, Boeing 777 series airplanes.

#### Unsafe Condition

(d) This AD is prompted by reports of engine high pressure turbine (HPT) assembly hardware being damaged as a result of thermal distress from oil igniting after leaking from the No. 3 bearing compartment. We are issuing this AD to prevent thermal distressed HPT assembly hardware from remaining in service, which could result in a cracked HPT stage 1 disk and HPT stage 1–2 air seal and 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.

#### Credit for Previous Inspections

(f) Inspections performed before the effective date of this AD, using Pratt & Whitney Alert Service Bulletin (ASB) No. PW4G–112–A72–257, dated June 30, 2003, may be counted toward satisfying the initial and repetitive inspection requirements of paragraphs (g) through (k) of this AD.

#### Borescope Inspection of Engines With High Oil Consumption

(g) For engines with high oil consumption that troubleshooting procedures fail to determine the source of oil loss, borescope-inspect No. 3 bearing oil vent tube assembly and or HPT assembly within 100 cycles-in-service (CIS) of the high oil consumption event, using paragraphs (g)(1) through (g)(2) of this AD. Information on troubleshooting engines with high oil consumption can be found in Boeing 777 Fault Isolation Manual (FIM), section 71–05, Task 830, dated January 5, 2003. See paragraph (l) of this AD for a definition of high oil consumption.

(1) Borescope-inspect the No. 3 bearing oil vent tube assembly for evidence of oil wetting or staining. Follow Step 3, paragraphs 1. through 1.A.(8)(a) of Accomplishment Instructions of Pratt & Whitney ASB No. PW4G–112–A72–257, Revision 1, dated August 22, 2003.

(2) If the No. 3 bearing oil vent tube is blocked and attempts to clear it are unsuccessful, borescope-inspect the HPT assembly, following Step 4, paragraphs 1. through 1.B(14) of Accomplishment Instructions of ASB No. PW4G–112–A72–257, Revision 1, dated August 22, 2003.

(3) Remove the HPT assembly within 100 CIS of the high oil consumption event if evidence of oil wetting or staining is found in the No. 3 bearing oil vent tube or on the HPT first stage disk.

(4) Replace any heat distressed HPT assembly hardware if oil wetting or staining is found.

#### Turbine Exhaust Case (TEC) Inspections Of All Engines

(h) Inspect the TEC of all engines, within 500 hours-in-service (HIS) after the effective date of this AD as follows:

(1) Visually inspect the TEC in the vicinity of the No. 3 bearing oil vent tube assembly for evidence of oil wetting or staining, using Figure 2 of Pratt & Whitney ASB No. PW4G–112–A72–257, Revision 1, dated August 22, 2003, for location of inspection.

(2) If evidence of oil wetting or staining is found at the TEC, borescope-inspect the No. 3 bearing oil vent tube assembly within 100 additional CIS, to confirm the oil is from the vent tube. Follow Step 1, paragraphs 1.B. through 1.D.(8)(a) of Accomplishment Instructions of Pratt & Whitney ASB No. PW4G–112–A72–257, Revision 1, dated August 22, 2003.

(3) If the No. 3 bearing oil vent tube is blocked and attempts to clear it are unsuccessful, borescope-inspect the HPT assembly following Step 4, paragraphs 1. through 1.B.(14) of Accomplishment Instructions of ASB No. PW4G–112–A72–257, Revision 1, dated August 22, 2003.

(4) Remove the HPT assembly within 100 CIS since performing the visual inspection of the TEC specified in paragraph (h)(1) of this AD, if evidence of oil wetting or staining is found in the No. 3 bearing oil vent tube or found on the HPT first stage disk.

(5) Replace any heat distressed HPT assembly hardware if oil wetting or staining is found.

#### Borescope Inspections of All Engines

(i) Borescope-inspect the No. 3 bearing oil vent tube assembly of all engines at or before accumulating 600 CIS or 2,000 HIS, whichever occurs first, after the effective date of this AD, as follows:

(1) Borescope-inspect the No. 3 bearing oil vent tube assembly for evidence of oil wetting or staining. Follow Step 2, paragraphs 1. through 1.A.(8) of Accomplishment Instructions of Pratt & Whitney ASB No. PW4G–112–A72–257, Revision 1, dated August 22, 2003.

(2) If the No. 3 bearing oil vent tube is blocked and attempts to clear it are unsuccessful, borescope-inspect the HPT assembly following Step 4, paragraphs 1. through 1.B.(14) of Accomplishment

Instructions of ASB No. PW4G–112–A72–257, Revision 1, dated August 22, 2003.

(3) Remove the HPT assembly within 100 CIS since performing the visual inspection of the TEC specified in paragraph (h)(1) of this AD, if evidence of oil wetting or staining is found in the No. 3 bearing oil vent tube or found on the HPT first stage disk.

(4) Replace any heat distressed HPT assembly hardware if oil wetting or staining is found.

**Repetitive Inspections of All Engines**

(j) Repeat the inspections of the TEC of all engines by following paragraphs (h)(1) through (h)(3) of this AD, at intervals not to exceed 500 HIS since last visual check of the TEC, and disposition the engine as specified in paragraphs (h)(4) through (h)(5) of this AD.

(k) Repeat borescope inspections of all engines by following paragraphs (i)(1) through (i)(2) of this AD, at intervals not to exceed 600 CIS or 2,000 HIS since last borescope inspection of the No. 3 oil vent tube, and disposition the engine as specified in paragraphs (i)(3) through (i)(4) of this AD.

**Definition**

(l) For the purposes of this AD, high oil consumption is defined as an engine consuming more than 0.5 quarts of oil per hour, as provided in the Boeing 777 FIM.

**Alternative Methods of Compliance**

(m) 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**

(n) You must follow Pratt & Whitney Alert Service Bulletin specified in Table 1 to perform the inspections required by this AD. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You can get a copy from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–7700; fax (860) 565–1605. You may review copies at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

TABLE 1.—INCORPORATION BY REFERENCE

| Alert service bulletin No. | Page Nos. | Revision | Date |
|---|---|---|---|
| PW4G–112–A72–257 | 1–5 | 1 | August 22, 2003. |
| | 6–7 | Original | June 30, 2003. |
| | 8 | 1 | August 22, 2003. |
| | 9 | Original | June 30, 2003. |
| | 10 | 1 | August 22, 2003. |
| | 11 | Original | June 30, 2003. |
| | 12 | 1 | August 22, 2003. |
| | 13–22 | Original | June 30, 2003. |
| Total pages: 22 | | | |

**Related Information**

(o) Boeing 777 Fault Isolation Manual, section 71–05, Task 830, dated January 5, 2003, pertains to high oil consumption troubleshooting procedures referred to in this AD.

Issued in Burlington, Massachusetts, on October 24, 2003.

**Peter A. White,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 03–27327 Filed 10–31–03; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2002–NM–06–AD; Amendment 39–13356; AD 2003–22–08]**

**RIN 2120–AA64**

## Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes, that requires a one-time inspection of the barrel nut holes of the upper spar caps and skin panel of the horizontal stabilizer for corrosion, and follow-on and corrective actions if necessary. This action is necessary to prevent such corrosion, which could result in structural damage and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Effective December 8, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 8, 2003.

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). 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 FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Ron Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5224; fax (562) 627–5210.

**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 McDonnell Douglas Model MD–11 and –11F airplanes was published in the **Federal Register** on May 29, 2003 (68 FR 32001). That action proposed to require a one-time inspection of the barrel nut holes of the upper spar caps and skin panel of the horizontal stabilizer for corrosion, and follow-on and corrective actions if necessary.

**Comments**

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

**Request To Extend Compliance Time**

The commenter requests that the compliance time for the proposed one-time inspection be extended from 18 months to 36 months, and that the proposed AD be revised to include a new revision to the referenced service

bulletin. The commenter states that it has inspected over 10 percent of its fleet, during which all three corrosion conditions were found. Finding these conditions caused the commenter to do a more extensive inspection. To accomplish the more extensive inspection, the commenter asserts that it takes an average of 1,650 work hours per airplane, and approximately 5,000 work hours for earlier manufactured airplanes. In light of the more extensive inspection, the commenter states that a compliance time of 36 months would be more realistic.

In addition, the commenter states that the manufacturer is revising Boeing Service Bulletin MD11–55–023 (which was referenced as the appropriate source of service information for the actions specified in the proposed AD) to incorporate a more extensive inspection along with an extended compliance time. The recommended compliance time for the more extensive inspection (Phase II) would be at the next scheduled heavy maintenance check or within 6 years after the Phase I inspection (specified in the proposed AD). Therefore, the commenter asserts that the proposed AD should be revised to include the new service bulletin revision for accomplishment of the more extensive inspection.

From these statements, the FAA infers that the commenter is requesting that the proposed AD also be revised to include a more extensive inspection for which they are requesting an extended compliance time. We do not agree that the 18-month compliance time should be extended or that a more extensive inspection should be added to the proposed AD. We have determined that the required inspection is sufficient to ensure an adequate level of safety for the transport fleet. We have coordinated this issue with the manufacturer and have determined that the 18-month compliance time is appropriate for the inspection method specified in this final rule. However, we may consider additional rulemaking to mandate a more extensive inspection and compliance time once the manufacturer has issued, and we have reviewed and approved, a revision of the service bulletin incorporating such an inspection. No change has been made to this final rule in this regard.

We note that the commenter has been proactive in accomplishing a more thorough inspection than was specified in the proposed AD. Under the provisions of paragraph (b) of this final rule, we may consider requests for alternative methods of compliance or adjustments to the compliance time if data are submitted to substantiate that such methods or adjustments would provide an acceptable level of safety.

## Conclusion

After careful review of the available data, including the comment 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

There are approximately 191 airplanes of the affected design in the worldwide fleet. The FAA estimates that 66 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 that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $25,740, or $390 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.

## 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:

**2003–22–08 McDonnell Douglas:** Amendment 39–13356. Docket 2002–NM–06–AD.

*Applicability:* Model MD–11 and –11F airplanes, as listed in Boeing Service Bulletin MD11–55–023, dated November 28, 2001; certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in

accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent corrosion of the barrel nut holes of the upper spar caps and skin panel of the horizontal stabilizer, which could result in structural damage and consequent reduced controllability of the airplane, accomplish the following:

**One-Time Inspection/ Follow-on and Corrective Actions**

(a) Within 18 months or 6,000 flight hours after the effective date of this AD, whichever is later: Do a one-time detailed inspection of the barrel nut holes of the upper spar caps and skin panel of the horizontal stabilizer for corrosion, per Boeing Service Bulletin MD11–55–023, including Appendix A, dated November 28, 2001. Before further flight, do the actions required by paragraph (a)(1), (a)(2), (a)(3), or (a)(4) of this AD, as applicable.

**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.''

(1) If no corrosion is found: Clean, seal, and tape the barrel nut holes per Figure 4 of the service bulletin.

(2) If corrosion is found that does not exceed the limits specified in Figure 2 of the service bulletin: Remove and retain the barrel nuts and bolts, remove the corrosion of the barrel nut hole, seal and tape the holes per Figure 4 of the service bulletin, and reinstall the barrel nuts and bolts per Figure 2 of the service bulletin.

(3) If corrosion is found that does not exceed 0.060 inch on the barrel nut bottom: Remove and retain the barrel nuts and bolts, remove the corrosion, fabricate and install bushings, seal and tape the holes per Figure 4 of the service bulletin, and reinstall the barrel nuts and bolts per Figure 2 of the service bulletin.

(4) If corrosion is found in the barrel nut bearing area, and/or corrosion exceeds the dimensional limits for each hole specified in Figure 2 of service bulletin: Repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

**Alternative Methods of Compliance**

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

**Special Flight Permit**

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

**Incorporation by Reference**

(d) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Service Bulletin MD11–55–023, including Appendix A, dated November 28, 2001. 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 Boeing Commercial Airplane Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW, Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Effective Date**

(e) This amendment becomes effective on December 8, 2003.

Issued in Renton, Washington, on October 24, 2003.

**Vi L. Lipski,**

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

[FR Doc. 03–27320 Filed 10–31–03; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2003–SW–18–AD; Amendment 39–13359; AD 2003–22–11]**

**RIN 2120–AA64**

## Airworthiness Directives; Eurocopter France Model AS350B, B1, B2, B3, BA, C, D, D1, and AS355E, F, F1, F2, and N Helicopters

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

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD) for the specified Eurocopter France (Eurocopter) Model AS350B, B1, B2, B3, BA, D, and AS355E helicopters, that currently requires removing certain serial-numbered main servocontrols before further flight. This amendment contains the same requirements but also requires removing certain other main and tail servocontrols on or before 550 hours time-in-service (TIS) or 24 months, whichever occurs first. Also, this amendment adds the Eurocopter Model AS350C, D1, and AS355F, F1, F2, and N helicopters to the applicability. This amendment is prompted by the discovery of a manufacturing defect in another set of servocontrols. The actions specified by this AD are intended to prevent failure of a main or tail servocontrol in the flight control system and subsequent loss of control of the helicopter.

**DATES:** Effective December 8, 2003.

**FOR FURTHER INFORMATION CONTACT:** Uday Garadi, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Guidance Group, Fort Worth, Texas 76193–0110, telephone (817) 222–5123, fax (817) 222–5961.

**SUPPLEMENTARY INFORMATION:** On December 21, 2001, the FAA issued Emergency AD 2001–26–53 (EAD). That EAD was published in the **Federal Register** as a final rule; request for comments on January 22, 2002, Docket No. 2001–SW–70–AD, Amendment 39–12605 (67 FR 2804). A proposal to amend 14 CFR part 39 by superseding AD 2001–26–53 for the specified Eurocopter model helicopters was published in the **Federal Register** on July 16, 2003 (68 FR 41968). The action proposed to retain the requirements in the existing AD to remove certain main servocontrols before further flight. The action also proposed removing certain main and tail servocontrols within 550 hours TIS or 24 months, whichever occurs first, and adding the Eurocopter Model AS350C, D1, and AS355F, F1, F2, and N helicopters to the applicability.

The FAA has reviewed Eurocopter Alert Service Bulletin No. 01.00.48 for Model AS355E, F, F1, F2, and N helicopters and No. 01.00.52 for Model AS350B, BA, B1, B2, B3, BB, and D helicopters, both dated May 16, 2002, which advise replacing certain main servocontrols, before further flight, and certain other main and tail servocontrols within 550 hours or 24 months.

The Direction General De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model AS350B, BB, B1, B2, B3, BA, D, and AS355E, F, F1, F2, and N helicopters. The DGAC advises of the discovery of a manufacturing fault on a

set of servocontrols. The DGAC classified the Eurocopter alert service bulletins as mandatory and issued AD No. 2003–099(A) (for Model AS 350 helicopters) and No. 2003–100(A) (for Model AS 355 helicopters), both dated March 5, 2003, to ensure the continued airworthiness of these helicopters.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

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 AD system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. Because we have now included this material in part 39, we no longer need to include it in each individual AD.

The FAA estimates that this AD will affect 627 helicopters of U.S. registry and will take approximately ½ work hour to identify and 2 work hours to replace each servocontrol per helicopter at an average labor rate of $65 per work hour. Required parts will cost approximately $9200 per helicopter. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $5,154,130, assuming 551 servocontrols are replaced.

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 is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 removing Amendment 39–12605 (67 FR 2804, January 22, 2002) and by adding a new airworthiness directive (AD), Amendment 39–13359, to read as follows:

**2003–22–11 Eurocopter France:** Amendment 39–13359. Docket No. 2003–SW–18–AD. Supersedes AD 2001–26–53, Amendment 39–12605, Docket No. 2001–SW–70–AD.

*Applicability:* Model AS350B, B1, B2, B3, BA, C, D, D1, and AS355E, F, F1, F2, and N helicopters, certificated in any category, except those helicopters with TRW–SAMM main and tail servocontrols that have been reconditioned and identified by the letter ''V'' engraved on the identification plate on the right-hand side of the part number (P/N).

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

To prevent failure of a servocontrol in the flight control system and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, remove each main servocontrol, P/N SC5083, serial number (S/N) 1500 through 1515, and P/N SC5084, S/N 722 through 726.

(b) On or before 550 hours time-in-service or 24 months, whichever occurs first, remove the following main or tail servocontrols, P/N and S/N:

(1) P/N SC5081–1, with S/N 78, 89, 227, 240, 315, 362, 427, 451, 452, 492, 497, 498, 506, 512, 532, 550, 556, or 561.

(2) P/N SC5082–1, with S/N 045, 180, 194, 197, 254, or 264.

(3) P/N SC5083, with S/N 01, 03, 05, 082, 17, 21, 40, 43M, 65M, 77, 87, 103M, 106M, 107, 109, 128, 129, 138, 139, 144, 148, 152, 206, 207, 218, 221, 226, 235, 239, 240, 241, 243, 254, 256, 269, 286, 287, 290, 291, 302, 312, 321, 325, 327, 330, 331, 334, 338, 339, 347M, 356M, 365, 371, 372, 378M, 380M, 389, 412M, 418, 423, 428, 439, 484M, 503, 505, 525, 526, 528, 529, 573M, 587, 594M, 598, 612, 622, 1150 through 1155, 1157, 1159 through 1169, 1180 through 1199, 1207, 1208, 1210 through 1259, 1269, or 1291 through 1499.

(4) P/N SC5084, with S/N 013, 025, 31, 75, 087, 87, 101M, 102, 105, 108, 136, 160, 162, 165M, 203, 205, 205M, 209, 220, 225, 232M, 239M, 267M, 271, 288M, 292, 300, 320, 364M, 458, 612, 627, 630, 632 through 634, 636 through 652, 654, 656 through 660, 682 through 721, 727 through 731, or 733 through 756.

(5) P/N SC5071–1, with S/N 343 or 389.

(6) P/N SC5072, with S/N 003, 35, 108, 197, 216M, 253M, 339M, 347M, 432M, 700 through 724, 726 through 744, 763 through 768, 783 through 789, or 820 through 883.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Safety Management Group, Rotorcraft Directorate, FAA, for information about previously approved alternative methods of compliance.

(d) Special flight permits will not be issued.

(e) This amendment becomes effective on December 8, 2003.

**Note:** The subject of this AD is addressed in Direction General De L'Aviation Civile, France, AD Nos. 2003–099(A) and 2003–100(A), both dated March 5, 2003.

Issued in Fort Worth, Texas, on October 24, 2003.

**David A. Downey,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 03–27541 Filed 10–31–03; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 97

**[Docket No. 30394; Amdt. No. 3081]**

## Standard Instrument Approach Procedures; Miscellaneous Amendments

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

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes

occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** This rule is effective November 3, 2003. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 3, 2003.

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

*For Examination*—

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

*For Purchase*—Individual SIAP copies may be obtained from:

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

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

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

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

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

## The Rule

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

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

## Conclusion

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

## List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC, on October 24, 2003.

**James J. Ballough,**

*Director, Flight Standards Service.*

## Adoption of the Amendment

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

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

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

■ 2. Part 97 is amended to read as follows:

** * * Effective November 27, 2003*

Hattiesburg, MS, Hattiesburg/Bobby L. Chain Muni, RNAV (GPS) RWY 13, Orig
Gallatin, TN, Sumner County Regional, RADAR–1, Amdt 4
Memphis, TN, Memphis Intl, RNAV (GPS) Z RWY 36R, Orig
Memphis, TN, Memphis Intl, RNAV (GPS) RWY 36R, Orig, CANCELLED

** * * Effective December 25, 2003*

Greeley, CO, Greeley-Weld County, NDB RWY 09, Amdt 1A, CANCELLED
Pocatello, ID, Pocatello Regional, VOR/DME OR TACAN RWY 21, Amdt 10
Pocatello, ID, Pocatello Regional, VOR OR TACAN RWY 3, Amdt 16
Pocatello, ID, Pocatello Regional, NDB RWY 21, Amdt 19
Pocatello, ID, Pocatello Regional, ILS OR LOC RWY 21, Amdt 26
Pocatello, ID, Pocatello Regional, RNAV (GPS) RWY 21, Orig

Pocatello, ID, Pocatello Regional, RNAV (GPS) RWY 3, Orig
Topeka, KS, Philip Billard Muni, RNAV (GPS) RWY 18, Orig
Topeka, KS, Philip Billard Muni, RNAV (GPS) RWY 31, Orig
Topeka, KS, Philip Billard Muni, RNAV (GPS) RWY 4, Orig
Topeka, KS, Philip Billard Muni, RNAV (GPS) RWY 36, Orig
Topeka, KS, Philip Billard Muni, RNAV (GPS) RWY 13, Orig
Topeka, KS, Philip Billard Muni, RNAV (GPS) RWY 22, Orig
Topeka, KS, Philip Billard Muni, VOR RWY 22, Amdt 21
Topeka, KS, Philip Billard Muni, VOR/DME RNAV OR GPS RWY 18, Amdt 7 CANCELLED
Topeka, KS, Philip Billard Muni, GPS RWY 31, Orig, CANCELLED
Topeka, KS, Philip Billard Muni, GPS RWY 13, Orig, CANCELLED
Lexington, KY, Blue Grass, NDB RWY 22, Orig
Lexington, KY, Blue Grass, ILS RWY 22, Amdt 19
Hattiesburg, MS, Hattiesburg/Bobby L. Chain Muni, VOR RWY 13, Amdt 11
Altoona, PA, Altoona-Blair County, ILS OR LOC RWY 21, Amdt 6
Price, UT, Carbon County, VOR/DME RWY 36, Orig
Price, UT, Carbon County, VOR RWY 36, Amdt 2
Price, UT, Carbon County, RNAV (GPS) RWY 36, Orig
Price, UT, Carbon County, GPS RWY 36, Orig-A, CANCELLED
Tooele, UT, Bolinder Field-Tooele Valley, RNAV (GPS) RWY 17, Orig
Tooele, UT, Bolinder Field-Tooele Valley, GPS RWY 16, Orig, CANCELLED
Richmond, VA, Richmond Intl, VOR RWY 2, Amdt 5B
Richmond, VA, Richmond Intl,VOR RWY 16, Amdt 27
Richmond, VA, Richmond Intl, VOR RWY 20, Amdt 1
Richmond, VA, Richmond Intl, VOR RWY 25, Amdt 16
Richmond, VA, Richmond Intl, VOR RWY 34, Amdt 23
Richmond, VA, Richmond Intl, ILS RWY 2, Amdt 1
Richmond, VA, Richmond Intl, ILS RWY 16, Amdt 8
Richmond, VA, Richmond Intl, RNAV (GPS) RWY 34, Orig
Richmond, VA, Richmond Intl, RNAV (GPS) RWY 16, Orig
Richmond, VA, Richmond Intl, RNAV (GPS) RWY 20, Orig
Richmond, VA, Richmond Intl, RNAV (GPS) RWY 7, Orig
Richmond, VA, Richmond Intl, RNAV (GPS) RWY 2, Orig
Richmond, VA, Richmond Intl, GPS RWY 34, Orig, CANCELLED
Richmond, VA, Richmond Intl, VOR/DME RNAV RWY 20, Amdt 5, CANCELLED
Richmond, VA, Richmond Intl, RNAV (GPS) RWY 25, Orig
Mosinee, WI, Central Wisconsin, VOR/DME RWY 35, Amdt 8

The FAA published an Amendment in Docket No. 30392, Amdt No. 3079 to Part 97 of the Federal Aviation Regulations (Vol 68, FR No. 204, Page 60288; dated October 22, 2003) under § 97.33 effective 30 October 2003, which is hereby rescinded:

De Kalb, IL, De Kalb Taylor Muni, VOR/DME RWY 27, Orig
De Kalb, IL, De Kalb Taylor Muni, VOR/DME OR GPS RWY 27, Amdt 5, CANCELLED

The FAA published an Amendment in Docket No. 30392, Amdt No. 3079 to Part 97 of the Federal Aviation Regulations (Vol 68, FR No. 204, Page 60288; dated October 22, 2003) under § 97.33 effective 30 October 2003, which is hereby rescinded:

Greencastle, IN, Putnam County, NDB RWY 18, Amdt 1

[FR Doc. 03–27507 Filed 10–31–03; 8:45 am]

BILLING CODE 4910–13–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[KY145–200339(a); FRL–7582–6]**

## Approval and Promulgation of Implementation Plans for Kentucky: Permit Provisions for Jefferson County, KY

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a revision to the Jefferson County, Kentucky portion of the Kentucky State Implementation Plan (SIP) which amends four regulations of the Metro Louisville Air Pollution Control District (MLAPCD). The four MLAPCD regulations being revised are: Regulation 1.08, ''Administrative Procedures,'' Regulation 2.05, ''Prevention of Significant Deterioration of Air Quality,'' Regulation 2.09, ''Causes for Permit Modification, Revocation, or Suspension,'' and Regulation 2.17, ''Federally Enforceable District Origin Operating Permits.''

**DATES:** This direct final rule is effective January 2, 2004 without further notice, unless EPA receives adverse comment by December 3, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Comments may be submitted by mail to: Michele Notarianni, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in sections I. B.1. through 3. of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Michele Notarianni, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Phone: (404) 562–9031. E-mail: *notarianni.michele@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. How Can I Get Copies of This Document and Other Related Information?*

1. The Regional Office has established an official public rulemaking file available for inspection at the Regional Office. EPA has established an official public rulemaking file for this action under KY145–200339. The official public file 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 rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 9 to 3:30, excluding federal holidays.

2. Copies of the State submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State and Local Air Agency. Commonwealth of Kentucky, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601–1403. (502/573–3382). Air Pollution Control District of Jefferson County, 850 Barrett Avenue—Suite 200, Louisville, Kentucky 40204. (502/574–6000)

3. Electronic Access. You may access this **Federal Register** document electronically through the Regulation.gov Web site located at *http://www.regulations.gov* where you can find, review, and submit comments on

Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

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 at the EPA Regional Office, 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 the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

*B. How and to Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text ''Public comment on proposed rulemaking KY145–200339'' 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. 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. 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. *E-mail.* Comments may be sent by electronic mail (e-mail) to: *notarianni.michele@epa.gov.* Please include the text ''Public comment on proposed rulemaking KY145–200339'' 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.

ii. *Regulation.gov.* Your use of Regulation.gov is an alternative method of submitting electronic comments to EPA. Go directly to Regulations.gov at *http://www.regulations.gov,* then select Environmental Protection Agency at the top of the page 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.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: Michele Notarianni, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Please include the text ''Public comment on proposed rulemaking KY145–200339'' in the subject line on the first page of your comment.

3. *By Hand Delivery or Courier.* Deliver your comments to: Michele Notarianni, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division 12th floor, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 9:00 to 3:30, excluding federal holidays.

*C. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

*D. 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 regional file/rulemaking 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. Today's Action

EPA is approving a revision to the Jefferson County portion of the Kentucky SIP, submitted by the Commonwealth of Kentucky on March 14, 2003, which amends four MLAPCD regulations affecting Jefferson County, Kentucky. Regulation 1.08, ''Administrative Procedures,'' is

amended to include all of the current actions for which a public hearing could be held and removes and reserves Section 5, ''Noncompliance Penalties,'' because it contains outdated language. Other amendments to this regulation include general wording, structure, and format changes to be consistent with the District's current regulations. Subsection 1.1.7 of Regulation 1.08 was not submitted for SIP approval because it references Regulation 2.12, which is not part of the approved Kentucky SIP.

Regulation 2.05, ''Prevention of Significant Deterioration of Air Quality,'' is updated to incorporate by reference the current EPA Prevention of Significant Deterioration regulation (40 CFR 52.21) with specific changes identified. Provisions of 40 CFR 52.21 that do not apply to Jefferson County, such as tribal issues and Class I areas, are not incorporated by reference into Regulation 2.05.

Regulation 2.09, ''Causes for Permit Modification, Revocation, or Suspension,'' is amended to clearly identify that this regulation also deals with issues of permit modification and revocation as well as suspension, specifying the circumstances under which they can occur and provides due process for the revocation of all permits.

Regulation 2.17, ''Federally Enforceable District Origin Operating Permits,'' specifies that permits may be revoked by the Board and not the District. Also, the permit revocation process is removed from Regulation 2.17 and added to Regulation 2.09.

## III. Final Action

EPA is approving the aforementioned changes to the SIP because it is consistent with the requirements of the Clean Air Act and EPA policy. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective January 2, 2004 without further notice unless the Agency receives adverse comments by December 3, 2003.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 2, 2004 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## IV. Statutory and Executive Order Reviews

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

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

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

The Congressional Review Act, 5 U.S.C. section 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. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 2, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide,

Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 21, 2003.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

■ Part 52 of chapter I, title 40, *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 S—Kentucky

■ 2. Section 52.920, the Jefferson County Regulations table in paragraph (c) is amended by revising the entries for ''1.08,'' ''2.05,'' ''2.09,'' and ''2.17'' to read as follows:

**§ 52.920 Identification of plan.**

* * * * *

(c) * * *

EPA-APPROVED JEFFERSON COUNTY REGULATIONS FOR KENTUCKY

| Reg | Title/subject | EPA approval date | Federal Register notice | District effective date |
|---|---|---|---|---|
| Reg 1 | General Provisions | | | |
| * | * | * | * | * |
| 1.08 | Administrative Procedures | 11/3/03 | [Insert citation of publication]. | 6/19/02 |
| * | * | * | * | * |
| Reg 2 | Permit Requirements | | | |
| * | * | * | * | * |
| 2.05 | Prevention of Significant Deterioration of Air Quality | 11/3/03 | [Insert citation of publication]. | 6/19/02 |
| * | * | * | * | * |
| 2.09 | Causes for Permit Modification, Revocation, or Suspension | 11/3/03 | [Insert citation of publication]. | 6/19/02 |
| * | * | * | * | * |
| 2.17 | Federally Enforceable District Origin Operating Permits | 11/3/03 | [Insert citation of publication]. | 6/19/02 |

* * * * *

[FR Doc. 03–27551 Filed 10–31–03; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 52 and 81

**[AZ 115–0058a; FRL–7573–9]**

## Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Arizona

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the maintenance plan for the Ajo area in Pima County, Arizona and granting the request submitted by the State to redesignate this area from nonattainment to attainment for the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide ($SO_2$). Elsewhere in this **Federal Register**, we are proposing approval and soliciting written comment on this action; if adverse written comments are received, we will withdraw the direct final rule and address the comments received in a new final rule; otherwise no further rulemaking will occur on this approval action.

**DATES:** This rule is effective January 2, 2004, without further notice, unless we receive adverse comments by December 3, 2003. If EPA receives adverse comments, we will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that this rule will not take effect.

**ADDRESSES:** Comments should be mailed or emailed to Wienke Tax, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, *tax.wienke@epa.gov*. Comments may also be submitted through the **Federal Register** Web site at *http://www.regulations.gov*. We prefer electronic comments.

You can inspect copies of EPA's **Federal Register** document and Technical Support Document (TSD) at our Region IX office during normal business hours (see address above). Due to increased security, we suggest that you call at least 24 hours prior to visiting the Regional Office so that we can make arrangements to have someone meet you. The **Federal Register** notice and TSD are also available as electronic files on EPA's Region 9 Web Page at *http://www.epa.gov/region09/air*.

You may inspect and copy the rulemaking docket for this notice at the following location during normal business hours.

Environmental Protection Agency, Region 9, Air Division, Air Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the State Implementation Plan (SIP) materials are also available

for inspection at the address listed below:

Arizona Department of Environmental Quality, 1110 W. Washington Street, First Floor, Phoenix, AZ 85007, Phone: (602)771–4335.

**FOR FURTHER INFORMATION CONTACT:** Wienke Tax, U.S. EPA Region 9, (520) 622–1622, *tax.wienke@epa.gov*, or *http://www.epa.gov/region09/air*.

**SUPPLEMENTARY INFORMATION:** Elsewhere in this **Federal Register**, we are proposing approval and soliciting written comment on this action. Throughout this document, the words ''we,'' ''us,'' or ''our'' mean U.S. EPA.

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B. Has the State Met the Remaining Maintenance Plan Provisions?
C. Has the State Met the Redesignation Provisions of CAA Section 107(d)(3)(E)?
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## I. Summary of Action

We are approving the maintenance plan for the Ajo $SO_2$ nonattainment area.[1] We are also approving the State of Arizona's request to redesignate the Ajo area from nonattainment to attainment for the primary $SO_2$ NAAQS.

## II. Introduction

### *A. What National Ambient Air Quality Standards Are Considered in Today's Rulemaking?*

Sulfur dioxide ($SO_2$) is the pollutant that is the subject of this action. The NAAQS are health-based and welfare-based standards for certain ambient air pollutants. $SO_2$ is among the ambient air pollutants for which we have established a health-based standard.

$SO_2$ causes adverse health effects by reducing lung function, increasing respiratory illness, altering the lung's defenses, and aggravating existing cardiovascular disease. Children, the elderly, and people with asthma are the most vulnerable. $SO_2$ has a variety of additional impacts, including acidic deposition, damage to crops and vegetation, and corrosion of natural and man-made materials.

There are both short- and long-term primary NAAQS for $SO_2$. The short-term (24-hour) standard of 0.14 parts per million (ppm) is not to be exceeded more than once per year. The long-term standard specifies an annual arithmetic mean not to exceed 0.030 ppm.[2] The primary standards were established in 1972. (See 40 CFR 50.4).

### *B. What Is a State Implementation Plan?*

The CAA requires states to attain and maintain ambient air quality equal to or better than the NAAQS. The state's commitments for attaining and maintaining the NAAQS are outlined in the State Implementation Plan (or SIP) for that state. The SIP is a planning document that, when implemented, is designed to ensure the achievement of the NAAQS. Each state currently has a SIP in place, and the Act requires that SIP revisions be made periodically as necessary to provide continued compliance with the standards.

SIPs include, among other things, the following: (1) An inventory of emission sources; (2) statutes and regulations adopted by the state legislature and executive agencies; (3) air quality analyses that include demonstrations that adequate controls are in place to meet the NAAQS; and (4) contingency measures to be undertaken if an area fails to attain the standard or make reasonable progress toward attainment by the required date.

The state must make the SIP available for public review and comment through a public hearing, it must be adopted by the state, and submitted to us by the Governor or her/his designee. We take federal action on the SIP submittal, thus rendering the rules and regulations federally enforceable. The approved SIP serves as the state's commitment to take actions that will reduce or eliminate air quality problems. Any subsequent revisions to the SIP must go through the formal SIP revision process specified in the Act.

### *C. What Is the Background for This Action?*

#### 1. When Was the Nonattainment Area Established?

Phelps Dodge Mining Company's Ajo Incorporated (PDAI) operation was the largest point source in the Ajo nonattainment area. The PDAI copper smelter was situated at the eastern end of the Little Ajo Mountains.

On March 3, 1978, at 43 FR 8968, for lack of a state recommendation, we designated Pima County as a primary $SO_2$ nonattainment area based on monitored violations of the primary $SO_2$ NAAQS in the area between 1975 and 1977. At the request of the Arizona Department of Environmental Quality (ADEQ), the nonattainment area was subsequently reduced to five townships in and around Ajo on April 10, 1979 (44 FR 21261). As a result, townships T11S, R6W; T11S, R5W; T12S, R6W; T12s, R5W; and T13S, R6W make up the nonattainment area. Townships T11S, R7W; T12S, R7W; T13S, R7W; and T13S, R5W are classified as ''cannot be classified'' areas.

On the date of enactment of the 1990 CAA Amendments, $SO_2$ areas meeting the conditions of section 107(d) of the Act, including the pre-existing $SO_2$ nonattainment areas, were designated nonattainment for the $SO_2$ NAAQS by operation of law. Thus, the Ajo area remained nonattainment for the primary $SO_2$ NAAQS following enactment of the 1990 CAA Amendments on November 15, 1990.

#### *2. How Has the SIP Addressed CAA Provisions?*

Arizona submitted a state implementation plan (SIP) for all major sources in the State in January 1972. EPA disapproved the portion of the 1972 Arizona SIP related to smelters (37 FR 10849 and 37 FR 15081) on May 31 and July 27, 1972. On November 30, 1981 EPA proposed conditional approval of Arizona's Multipoint Rollback (MPR) SIP revision (46 FR 58098). On June 3, 1982, Arizona submitted SIP revisions to correct the conditional approval. EPA formally approved Arizona's revised MPR Rule as a final rulemaking on January 14, 1983 (48 FR 1717). To complete the Arizona $SO_2$ SIPs, EPA required that Arizona submit the necessary fugitive emissions control strategies and regulations for existing smelters by August 1, 1984.

[1] For the definition of the Ajo nonattainment area, see 40 CFR 81.303. EPA designated the entire area of Pima County as nonattainment for $SO_2$ on March 3, 1978 for lack of a State recommendation. EPA approved the State's request that the $SO_2$-affected portion of Pima County be limited to the townships surrounding Ajo on April 10, 1979 (44 FR 21261). Townships T11S,R6W; T11S, R5W; T12S, R6W; T12S, R5W; and T13S, R6W comprise the nonattainment area. Townships T11S, R7W; T12S, R7W; T13S, R5W; and T13S, R7W are designated as ''cannot be classified.'' Ajo is a town in Pima County in the southwestern portion of Arizona.

[2] The secondary $SO_2$ NAAQS (3-hour) of 0.50 ppm is not to be exceeded more than once per year. Secondary NAAQS are promulgated to protect welfare. The Ajo area is not classified nonattainment for the secondary standard, and this action relates only to the primary NAAQS.

*3. What Is the Current Status of the Area?*

On April 4, 1985, the PDAI smelter was permanently deactivated. Dismantling of the Ajo facility began in 1995. By February of 1996, the facility was completely dismantled. On October 15, 1997, ADEQ confirmed that the facility was dismantled and no longer existed at the former site. The area remains sparsely settled, and there are only minor industrial or commercial activities in or near the nonattainment area that produce small quantities of $SO_2$ emissions. The only point source consists of several generators run by Phelps Dodge which have a potential to emit (PTE) of 49.2 tons per year (tpy) of $SO_2$. The ADEQ submission also included emissions from a proposed Gila Bend regional landfill, which was expected to have a PTE of 24.1 tpy of S02 when built. Because of their potential emissions, ADEQ classified these two sources as point sources. The Phelps Dodge generators are used only as a backup energy source, have emitted less than 1 tpy of $SO_2$ for the past five years of operation, and are not expected to emit more than 1.2 tpy of $SO_2$ in 2015. The landfill has not been built, and we were informed by the State on August 8, 2003 that the permit for the landfill was terminated by the permittee on August 28, 2002.

Currently, there are no operating ambient $SO_2$ monitors in the Ajo area. However, we do not expect the cumulative impact of the sources in and around Ajo to cause a violation of the NAAQS because their emissions are so low. No significant new sources have located in the area, another reason why our action today is appropriate.

*D. What Are the Applicable Clean Air Act (CAA) Provisions for $SO_2$ Nonattainment Area Plans?*

The air quality planning requirements for $SO_2$ nonattainment areas are set out in subparts 1 and 5 of Part D of title I of the Act. We have issued guidance in a General Preamble describing our views on how we will review SIPs and SIP revisions submitted under title I of the Act, including those containing $SO_2$ nonattainment area and maintenance area SIP provisions. 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992). The General Preamble discusses our interpretation of the title I requirements, and lists $SO_2$ policy and guidance documents.

1. What Statutory Provisions Apply?

CAA Sections 191 and 192 address requirements for $SO_2$ nonattainment areas designated subsequent to enactment of the 1990 CAA Amendments and areas lacking fully approved SIPs immediately before enactment of the 1990 Clean Air Act Amendments. Ajo falls into neither of these categories and is therefore subject to the requirements of subpart 1 of Part D of title I of the CAA (Sections 171–179B). Section 172 of this subpart contains provisions for nonattainment plans in general; these provisions were not significantly changed by the 1990 CAA Amendments. Among other requirements, CAA Section 172 provides that SIPs must assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented as expeditiously as practicable and shall provide for attainment.

*E. What Are the Applicable Provisions for $SO_2$ Maintenance Plans and Redesignation Requests?*

1. What Are the Statutory Provisions?

a. CAA Section 107(d)(3)(E).

The 1990 CAA Amendments revised section 107(d)(3)(E) to provide five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment:

(1) the area must have attained the applicable NAAQS;

(2) the area has met all relevant requirements under section 110 and Part D of the Act;

(3) the area has a fully approved SIP under section 110(k) of the Act;

(4) the air quality improvement must be permanent and enforceable; and,

(5) the area must have a fully approved maintenance plan pursuant to section 175A of the Act.

b. CAA Section 175A.

CAA section 175A provides the general framework for maintenance plans. The maintenance plan must provide for maintenance of the NAAQS for at least 10 years after redesignation, including any additional control measures as may be necessary to ensure such maintenance. In addition, maintenance plans are to contain such contingency provisions as we deem necessary to assure the prompt correction of a violation of the NAAQS that occurs after redesignation. The contingency measures must include, at a minimum, a requirement that the state will implement all control measures contained in the nonattainment SIP prior to redesignation. Beyond these provisions, however, CAA section 175A does not define the content of a maintenance plan.

2. What General EPA Guidance Applies to Maintenance Plans?

Our primary general guidance on maintenance plans and redesignation requests is a September 4, 1992 memo from John Calcagni, entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' (''Calcagni Memo''). Specific guidance on $SO_2$ redesignations also appears in a January 26, 1995 memo from Sally L. Shaver, entitled ''Attainment Determination Policy for Sulfur Dioxide Nonattainment Areas'' (''Shaver Memo'').

Guidance on $SO_2$ maintenance plan requirements for an area lacking monitored ambient data, if the area's historic violations were caused by a major point source that is no longer in operation, is found in an October 18, 2000 memo from John S. Seitz, entitled ''Redesignation of Sulfur Dioxide Nonattainment Areas in the Absence of Monitored Data'' (''Seitz Memo''). The Seitz Memo exempts eligible areas from the maintenance plan requirements of continued monitoring.

3. What Are the Requirements for Redesignation of Single-Source $SO_2$ Nonattainment Areas in the Absence of Monitored Data?

Our historic redesignation policy for $SO_2$ has called for eight quarters of clean ambient air quality data as a necessary prerequisite to redesignation of any area to attainment. The Seitz memo provides guidance on $SO_2$ maintenance plan requirements for an area lacking monitored ambient data, if the area's historic violations were caused by a major point source that is no longer in operation. In order to allow for these areas to qualify for redesignation to attainment, this policy requires that the maintenance plan address otherwise applicable provisions, and include:

(1) Emissions inventories representing actual emissions when violations occurred; current emissions; and emissions projected to the 10th year after redesignation;

(2) Dispersion modeling showing that no NAAQS violations will occur over the next 10 years and that the shut down source was the dominant cause of the high concentrations in the past;

(3) Evidence that if the shut down source resumes operation it would be considered a new source and be required to obtain a permit under the Prevention of Significant Deterioration provisions of the CAA; and

(4) A commitment to resume monitoring before any major SOx source commences operation.

## III. Review of the Arizona State Submittals Addressing These Provisions

*A. Is the Maintenance Plan Approvable?*

1. Did the State Meet the CAA Procedural Provisions?

On June 18, 2002, ADEQ submitted to EPA the ''Ajo Sulfur Dioxide Nonattainment Area, State Implementation and Maintenance Plan'' and a request to redesignate the area to attainment. The State verified that it had adhered to its SIP adoption procedures. On October 30, 2002, we found that the submittal met the completeness criteria in 40 CFR Part 51, Appendix V, which must be satisfied before EPA formal review.

2. Does the Area Qualify for Review Under the Seitz Memo?

a. Were the Area's Violations Caused by a Major Point Source of $SO_x$ Emissions that Is No Longer in Operation?

As discussed above, the only major source of $SO_x$ emissions within the Ajo nonattainment area was the Phelps Dodge Mining Company's Ajo Incorporated (PDAI) copper smelter, which ceased operation in 1985. The last recorded 24-hour or annual average exceedances of the primary NAAQS at PDAI occurred in 1984. During the monitoring network's history, annual average $SO_2$ levels were generally one half of the current NAAQS standard (0.030 ppm). ADEQ removed the $SO_2$ monitor in 1985, the smelter operating permits expired, the smelting equipment was removed over a period of years, and the smelter was completely dismantled by February 1996. No new sources of $SO_2$ of the magnitude of PDAI have located in the area. Thus, Ajo meets this criterion for review under the Seitz Memo.

b. Has the State Met the Requirements of the Seitz Memo?

As discussed below, the State has addressed the requirements in the Seitz Memo for emissions inventories, modeling, permitting of major new sources, and agreement to commence monitoring if a new major source locates in the area. Therefore, the State has met the special criteria in the Seitz Memo for approval of maintenance plans and redesignation requests.

(1) Emissions Inventory. The State provided the three emissions inventories specified in the Seitz Memo for the sources in, and within 50 kilometers of, the Ajo nonattainment area. For a representative year when the copper smelter was in operation (1981), direct $SO_x$ emissions from smelting operations were 39,596 tpy. The ADEQ submittal identifies only a single existing point source within the Ajo Area, the Phelps Dodge Generator Station, with 2000 $SO_2$ emissions of about 1 tpy, and 2015 projected emissions of 1.2 tpy. Phelps Dodge has only operated the generators as emergency/back up electric supply in recent years. The ADEQ submittal also identified the proposed Gila Bend Landfill, and projected its emissions at 29.7 tpy in 2015.[3] We conclude that the inventories are complete, accurate, and consistent with applicable CAA provisions and the Seitz Memo.

(2) Modeling. Past EPA policy memoranda on $SO_2$ redesignations all ask for dispersion modeling. The Seitz Memo asks for dispersion modeling of all point sources within 50 km of the nonattainment area boundary. Screening dispersion modeling was performed with SCREEN3 using conservative assumptions about source parameters and the meteorology. The modeling indicated that the existing and then-proposed (Gila Landfill) sources would likely have an impact of about 66 percent of any of the $SO_2$ standards.

The Seitz Memo requires a modeling analysis that shows point sources were the dominant sources contributing to high $SO_2$ concentrations in the airshed. While MPR has been accepted by EPA for modeling of smelters, as a rollback method it assumes that the monitored $SO_2$ violations are completely due to the smelter being modeled. Thus, it cannot be relied upon for this analysis. Instead, screening modeling can be used to show that non-smelter sources have only an insignificant contribution. Since their emissions have changed relatively little since the time that emission controls were placed on the smelter, this same screening modeling shows that the non-smelter sources were insignificant in the past, and hence the smelter was the dominant source contributing to past high $SO_2$ concentrations. EPA therefore finds that the ambient $SO_2$ modeling requirement for redesignations and maintenance plans is met.

(3) Permitting of New Sources. For the Ajo $SO_2$ nonattainment area, the nonattainment area new source review (NSR)permit program responsibilities are shared by ADEQ and Pima Department of Environmental Quality (PDEQ). ADEQ administers the preconstruction review and permitting provisions of Arizona Administrative Code, Title 18, Chapter 2, Articles 3 and 4. PDEQ administers the NSR program under Pima County Code, Title 17, Chapter 17.12 and Chapter 17.16, Article VIII. All new major sources and modifications to existing major sources are subject to the NSR requirements of these rules. We have not yet fully approved the ADEQ and PDEQ NSR rules.

Section 172(c)(5) requires NSR permits for the construction and operation of new and modified major stationary sources anywhere in nonattainment areas. We have determined that areas being redesignated from nonattainment to attainment do not need to comply with the requirement that an NSR program be approved prior to redesignation provided that the area demonstrates maintenance of the standard without Part D nonattainment NSR in effect. The rationale for this decision is described in a memorandum from Mary Nichols dated October 14, 1994 (''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment''). We have determined that the maintenance demonstration for Ajo does not rely on nonattainment NSR. Prevention of Significant Deterioration (PSD) is the replacement for NSR in attainment areas, and part of the obligation under PSD is for a new source to review increment consumption and maintenance of the air quality standards. PSD also requires preconstruction monitoring. Therefore, the State need not have a fully approved nonattainment NSR program prior to approval of the redesignation request.

ADEQ and PDEQ have PSD permitting programs (A.A.C. R18–2–406 and Pima County Code (PCC) 17.16.590) that were established to preserve the air quality in areas where ambient standards have been met. The State's PSD program for all criteria pollutants except PM–10 was approved into the SIP effective May 3, 1983 (48 FR 19879). The federal PSD program for PM–10 was delegated to the State on March 12, 1999. Pima's PSD program (for all criteria pollutants) was delegated effective April 14, 1994. The PSD program requires stationary sources to undergo preconstruction review before facilities are constructed, modified, or reconstructed and to apply Best Available Control Technology (BACT). These programs will apply to any major source wishing to locate in the Ajo area once the area is redesignated to attainment. The ADEQ and PDEQ commitments to treat any major source in or near Ajo as ''new'' under the PSD program satisfies the preconstruction permit provision of the

[3] Since its original submission, ADEQ has informed EPA that the Gila Bend Regional Landfill permit was terminated by the permittee on August 28, 2002, and this proposed source was never constructed.

Seitz memo as one of the prerequisites to redesignation.

(4) Monitoring. ADEQ has confirmed that the State commits to resume monitoring before any major source of $SO_2$ commences to operate. This addresses the monitoring provision of the Seitz Memo.

*B. Has the State Met the Remaining Maintenance Plan Provisions?*

As discussed above, CAA Section 175A sets forth the statutory requirements for maintenance plans, and the Calcagni and Shaver Memos cited above contain specific EPA guidance. The only maintenance plan element not covered by the Seitz Memo is the contingency provision. CAA Section 175A provides that maintenance plans ''contain such contingency provisions as the Administrator deems necessary to assure that the State will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area.''

The Ajo Maintenance Plan includes the State's commitment to continue to implement and enforce measures necessary to maintain the $SO_2$ NAAQS. ADEQ's current operating permit program places limits on $SO_2$ emissions from existing sources. Should an existing facility want to upgrade or increase $SO_2$ emissions, the facility would be subject to the PSD program. Should a new facility be constructed in the Ajo area, the facility would also be subject to PSD as required in the Calcagni Memo.

If these measures prove insufficient to protect against exceedances of the NAAQS, the State has also committed to adopt, submit as a SIP revision, and implement expeditiously any and all measures needed to ensure maintenance of the NAAQS.

The Calcagni Memo emphasizes the importance of specific contingency measures, schedules for adoption, and action levels to trigger implementation of the contingency plan. Since there are no remaining sources of $SO_2$ emissions of the magnitude of the Phelps Dodge smelter and there is no $SO_2$ monitoring in the Ajo area, we agree with the State that this level of specificity is not appropriate, and we conclude that the State's commitment satisfactorily addresses the CAA provisions. We believe that the State and County's PSD permitting program is sufficient to track future air quality trends and to assure that the Ajo area will not violate the NAAQS. If either the State or the County identifies the potential for a NAAQS violation through the permitting process, they would ascertain what measures would be needed to avoid the violation.

*C. Has the State Met the Redesignation Provisions of CAA Section 107(d)(3)(E)?*

1. Has the Area Attained the 24-Hour and Annual $SO_2$ NAAQS?

As discussed above, the normal prerequisite for redesignation is submittal of quality-assured ambient data with no violations of the $SO_2$ NAAQS for the last eight consecutive quarters. However, the Seitz Memo recognizes that states should be provided an opportunity to request redesignation where there is no longer monitoring but where there is no reasonable basis for assuming that $SO_2$ violations persist after closure of the sources that were the primary or sole cause of these violations. Ajo is such an area, and the State has submitted convincing evidence that no major stationary sources of SOx emissions remain in operation in or within 50 kilometers of the area that might cause a violation of the $SO_2$ NAAQS. We do not believe that, even in the aggregate, the remaining minor sources which are present would cause a violation of the $SO_2$ NAAQS.

2. Has the Area Met All Relevant Requirements Under Section 110 and Part D of the Act?

CAA Section 110(a)(2) contains the general requirements for SIPs (enforceable emission limits, ambient monitoring, permitting of new sources, adequate funding, etc.) and Part D contains the general provisions applicable to SIPs for nonattainment areas (emissions inventories, reasonably available control measures, demonstrations of attainment, etc.). Over the years, we have approved Arizona's SIP as meeting the basic requirements of CAA Section 110(a)(2), and the CAA Part D requirements for Ajo addressed primarily by the regulations applicable to the Phelps Dodge facility during the period of its operation. The State has thus met the basic SIP requirements of the CAA.

3. Does the Area Have a Fully Approved SIP Under Section 110(k) of the Act?

We examined the applicable SIP, and also looked at the disapprovals listed in 40 CFR 52.125 and no disapprovals remain relevant to the applicable SIP. Arizona has a fully-approved SIP with respect to the Ajo area.

4. Has the State Shown That the Air Quality Improvement in the Area is Permanent and Enforceable?

Yes. The Maintenance Plan shows that the exclusive cause of past $SO_2$ NAAQS violations (the Phelps Dodge copper smelter in Ajo) no longer exists. As a result, there is no reason to expect that $SO_2$ ambient concentrations will exceed background levels.

5. Does the Area Have a Fully Approved Maintenance Plan Pursuant to Section 175A of the Act?

Yes. As discussed above, we are approving the Ajo Maintenance Plan in this action.

## IV. Final Action

We are approving the Maintenance Plan for the Ajo area under CAA Sections 110 and 175A. We are also approving the State's request to redesignate the Ajo area to attainment of the primary $SO_2$ NAAQS.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the State plan and redesignate the area if relevant adverse comments are filed. This rule will be effective January 2, 2004 without further notice unless relevant adverse comments are received by December 3, 2003. If we receive such comments, this action will be withdrawn before the effective date. All public comments received will then be addressed in a subsequent final rule based on the proposed action. We will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective January 2, 2004.

## V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements

under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

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

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

The Congressional Review Act, 5 U.S.C. section 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. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 2, 2004. 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

*40 CFR Part 81*

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: September 25, 2003.

**Deborah Jordan,**

*Acting Regional Administrator, Region 9.*

■ Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations are 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 D—Arizona

■ 2. Section 52.120 is amended by adding paragraph (c)(111) to read as follows:

**§ 52.120 Identification of plan.**

* * * * *

(a) * * *

(111) The following plan was submitted on June 18, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Department of Environmental Quality.

(*1*) Ajo Sulfur Dioxide State Implementation and Maintenance Plan, adopted by Arizona Department of Environmental Quality on June 18, 2002.

## PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In § 81.303 the $SO_2$ table is amended by revising the entry for the Ajo area to read as follows:

**§ 81.303 Arizona.**

* * * * *

ARIZONA—$SO_2$

| Designated area | Does not meet primary standards | Does not meet secondary standards | Cannot be classified | Better than national standards |
|---|---|---|---|---|
| Ajo (T11–13S, R5W–R6W) | | | | x |
| * * * | * * | * * | * | |

* * * * *

[FR Doc. 03–27263 Filed 10–31–03; 8:45 am]
BILLING CODE 6560–50–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## 42 CFR Part 73

## Possession, Use, and Transfer of Select Agents and Toxins

**AGENCY:** Centers for Disease Control and Prevention, HHS.

**ACTION:** Interim final rule and request for comments.

**SUMMARY:** We are amending an interim final rule published on December 13, 2002, that established requirements regarding possession and use in the United States, receipt from outside the United States, and transfer within the United States, of select agents and toxins. The requirements were established to implement provisions of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. The December 2002 interim final rule established a phase-in period for certain requirements to allow entities to comply without causing disruption or termination of research or educational projects. The phase-in for entities that on February 7, 2003, were already conducting activities under a certificate of registration issued under 42 CFR 72.6, or already were lawfully possessing select agents and toxins, required entities applying for registration with the select agent program, and individuals requiring access to select agents and toxins, to undergo a security risk assessment by the Attorney General before November 12, 2003. The regulations also provided that an entity that on February 7, 2003, was not already conducting activities under a certificate of registration issued under 42 CFR 72.6, or was not already lawfully possessing select agents and toxins, would be eligible for registration to possess, use, or transfer select agents and toxins as soon as the entity met all of the applicable requirements of Part 73, including the requirement for the Attorney General to conduct a security risk assessment. We are now amending the applicability requirements to allow for the issuance of provisional registration certificates for all entities, and provisional grants of access for all individuals, from whom, prior to November 12, 2003, the Attorney General has received all of the information required by the Attorney General to conduct a security risk assessment if those entities and individuals otherwise meet all of the requirements of Part 73. This action is necessary to ensure that both ongoing and new research and educational efforts important to the national defense are not disrupted.

**DATES:** This interim final rule is effective as of November 3, 2003. Written comments must be submitted on or before January 2, 2004.

**ADDRESSES:** Select Agent Program, Centers for Disease Control and Prevention, 1600 Clifton Rd., E–79, Atlanta, GA 30333. Comments may be e-mailed to: *SAPcomments@CDC.GOV.*

**FOR FURTHER INFORMATION CONTACT:** Mark Hemphill, Chief of Policy, Select Agent Program, Centers For Disease Control and Prevention, 1600 Clifton Rd., MS E–79, Atlanta Ga. 30333. (404) 498–2255.

**SUPPLEMENTARY INFORMATION:** The December 2002 interim final rule implements provisions of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Public Law 107–188 (referred to below as the Act). The Act bolstered the authority of the Secretary of the United States Department of Health and Human Services (referred to below as HHS) to protect the American public against the misuse of select agents and toxins whether inadvertent or the result of terrorist acts against the United States homeland (such as the recent terrorist acts involving anthrax) or other criminal acts. The Act gave to the Secretary broad discretion in establishing and enforcing the new regulations to ensure that select agents and toxins would remain available for research, education, and other legitimate purposes.

In a document published in the **Federal Register** on December 13, 2002 (67 FR 76886), we promulgated an interim final rule to establish requirements regarding possession and use in the United States, receipt from outside the United States, and transfer within the United States, of certain biological agents and toxins (referred to below as select agents and toxins). This includes requirements concerning registration, security risk assessments, safety plans, security plans, emergency response plans, training, transfers, record keeping, inspections, and notifications. The December 2002 interim final rule is set forth at 42 CFR part 73.

In general, the entities regulated under the December 2002 interim final rule are academic institutions and biomedical centers; commercial manufacturing (the pharmaceutical industry) or distribution facilities; federal, state, and local laboratories, including clinical and diagnostic laboratories; and research facilities.

The Act also gives the United States Department of Agriculture (referred to below as USDA) the authority and responsibility for regulating activities regarding select agents and toxins to protect animal and plant health and animal and plant products. The Act gives the Secretary of HHS the authority and responsibility for regulating activities regarding select agents and toxins to protect the public health and safety. Some of the select agents and toxins regulated under the HHS December 2002 interim final rule are also regulated by USDA under 9 CFR part 121. The select agents and toxins subject to regulation by both agencies are identified as ''overlap'' select agents and toxins and those regulated solely by HHS are identified as HHS select agents and toxins. The Act provides for interagency coordination between the two departments regarding overlap select agents and toxins.

The December 2002 interim final rule established a phase-in period for certain requirements to allow entities to comply without causing disruption or termination of research or educational projects. The phase-in for entities that on February 7, 2003, were already conducting activities under a certificate of registration issued under 42 CFR 72.6, or already were lawfully possessing select agents and toxins, required that entities applying for registration with the select agent program, and individuals requiring access to select agents and toxins, to undergo a security risk assessment by the Attorney General before November 12, 2003. The regulations also provided that an entity that on February 7, 2003, was not already conducting activities under a certificate of registration issued under 42 CFR 72.6, or was not already lawfully possessing select agents and toxins, would be eligible for registration to possess, use, or transfer select agents and toxins as soon as the entity met all of the applicable requirements of Part 73, including the requirement for the Attorney General to conduct a security risk assessment.

The Attorney General has assigned the responsibility to conduct the security risk assessments required by the Act to the Federal Bureau of Investigation (FBI). The Criminal Justice Information Services (CJIS) Division is the component of the FBI responsible for implementing this program. The CJIS Division continues to receive complete application packages, which consist of completed FBI Information Forms (FD–961) and usable fingerprint cards, and has finalized over 5,000 security risk

assessments.[1] The CJIS Division had diverted personnel from other key programs in order to finalize as many security risk assessments as possible without compromising its other missions. It is important to note that the time needed to process a security risk assessment varies in relation to the complexity of each application. Some individuals may be processed in as little as two weeks once processing begins, while other individuals can take several months. At its current processing rate, the CJIS Division expects to be able to finalize by the November 12, 2003, deadline the security risk assessments of almost all of the completed applications that were pending as of October 1, 2003.

However, in addition to the complete application packages, the CJIS Division also has received incomplete packages. The CJIS Division has sent more than 2,450 letters informing Responsible Officials of the incomplete applications of their personnel. In light of its present capacity and processing times, the CJIS Division has projected that even if immediately completed, these outstanding applications could not be processed by the November 12, 2003 regulatory deadline.

We believe that the continued operation of these facilities is vital to the public interest. We also believe that those entities and individuals that have submitted all of the required information and forms by November 12, 2003, have made a good faith effort to comply with these regulations. We are therefore amending the applicability requirements to allow for the issuance of provisional registration certificates for entities, and provisional grants of access for individuals, from whom, prior to November 12, 2003, the Attorney General has received all of the information required by the Attorney General to conduct a security risk assessment if those entities and individuals otherwise meet all of the requirements of Part 73. This action is necessary to ensure that, as required by the Act, ongoing research and educational efforts important to the national defense are not disrupted. We are also amending the applicability requirements to allow for the issuance of provisional registration certificates for entities not currently in possession of select agents or toxins from whom, prior to November 12, 2003, the Attorney General has received all the information required by the Attorney General to conduct a security risk assessment if those entities and individuals otherwise meet all of the requirements of Part 73 and the Secretary, HHS, determines such action is in the interest of the public health and national security. An entity's provisional registration will stay in effect until the Secretary either grants the entity a certificate of registration or revokes the entity's provisional registration. An individual's provisional grant of access will remain in effect until the Secretary either grants access or revokes the individual's provisional grant of access. This action is necessary to ensure that new research, educational, and national security preparedness efforts are not impeded.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

## Authority for Interim Final Rule

We are amending the December 2002 interim final rule to insure that the provisions of the Part 73 are consistent with the original intent of the Act. Consequently, the Act also requires this amendment to be published as an interim final rule (42 U.S.C. 262a, note). Further, pursuant to 5 U.S.C. 553, we find that notice and public procedure are impracticable, unnecessary, and contrary to the public interest and that we have good cause to dispense with notice and comment on this amendment. The amendment will prevent disruption or termination of ongoing research and educational projects by hundreds of entities and thousands of individuals needing access to select agents and toxins.

Immediate action is necessary to prevent the imposition of an unnecessary burden on the regulated community; and to ensure the appropriate availability of biological toxins for research, education, and other legitimate purposes. Under these circumstances, the Secretary has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

## Paperwork Reduction Act

This interim final rule does not contain any new provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. Chapter 35).

## Executive Order 12866

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

## Regulatory Flexibility Act

This emergency situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.* ) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

## Unfunded Mandates

The Unfunded Mandates Reform Act at 2 U.S.C. 1532 requires that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This interim final rule is not expected to result in any one-year expenditure that would exceed $100 million.

## Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

## List of Subjects in 42 CFR Part 73

Biologics, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: October 30, 2003.

**Tommy G. Thompson,**

*Secretary.*

■ For the reasons stated in the preamble, 42 CFR part 73 is amended as follows:

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

**Authority:** 42 U.S.C. 262a; sections 201–204, 221 and 231 of Title II of Public Law 107–188, 116 Stat. 637 (42 U.S.C. 262a).

### § 73.0 [Amended]

■ 2. Amend § 73.0 by adding paragraphs (b)(5), through (b)(8) and paragraphs (c)(5) through (c)(8) to read as follows:

[1] To avoid delays related to incomplete applications, individuals and entities should submit their FD–961 forms and fingerprint cards to the CJIS Division in one package. However, this does not apply to applicants who are submitting follow-up information or fingerprint cards for an existing incomplete application.

**§ 73.0 Applicability and related requirements.**

* * * * *

(b) * * *

(5) A provisional registration certificate may be issued to an entity if, as of November 12, 2003:

(i) The Attorney General has received all of the information, including fingerprint cards, required by the Attorney General to conduct a security risk assessment of the entity, including any individual who owns or controls the entity; and

(ii) The entity otherwise meets all of the requirements of this Part.

(6) A provisional registration certificate will be effective until the Secretary either issues a certificate of registration or suspends or revokes the provisional registration.

(7) A provisional grant of access may be issued to an individual identified by an entity as having a legitimate need to have access to a select agent or toxin from whom, as of November 12, 2003, the Attorney General has received all of the information, including fingerprint cards, required by the Attorney General to conduct a security risk assessment of that individual.

(8) A provisional grant of access will be effective until the Secretary either grants the individual access or denies access to a select agent or toxin.

(c) * * *

(5) A provisional registration certificate may be issued to an entity if, as of November 12, 2003:

(i) The Attorney General has received all of the information, including fingerprint cards, required by the Attorney General to conduct a security risk assessment of the entity, including any individual who owns or controls the entity;

(ii) The entity otherwise meets all of the requirements of this Part; and

(iii) The HHS Secretary finds that circumstances warrant such action in the interest of the public health and safety or national security.

(6) A provisional registration certificate will be effective until the Secretary either issues a certificate of registration or suspends or revokes the provisional registration.

(7) A provisional grant of access may be issued to an individual identified by an entity as having a legitimate need to have access to a select agent or toxin from whom, as of November 12, 2003, the Attorney General has received all of the information, including fingerprint cards, required by the Attorney General to conduct a security risk assessment of that individual.

(8) A provisional grant of access will be effective until the Secretary either grants the individual access or denies access to a select agent or toxin.

[FR Doc. 03–27659 Filed 10–31–03; 8:45 am]

BILLING CODE 4160–17–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 25

**[IB Docket Nos. 02–34, 00–248, and 96–111, FCC 03–128]**

## Satellite Licensing Procedures

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission adopts a procedure that will give operators the flexibility to operate satellites in their fleets at any one of their orbit locations assigned to their fleet without individual prior Commission approval. The Commission also relaxes a licensing requirement for receive-only earth stations accessing certain foreign-licensed satellites. These actions are necessary to provide U.S.-licensed and non-U.S.-licensed satellite operators authorized to provide service to the United States more flexibility to meet their customers' needs.

**DATES:** This final rule contains information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date of these amendments.

**FOR FURTHER INFORMATION CONTACT:** Steven Spaeth, Attorney Advisor, Satellite Division, International Bureau, telephone (202) 418–1539 or via the Internet at *steven.spaeth@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Second Report and Order, IB Docket Nos. 02–34, 00–248, and 96–111, FCC 03–128, adopted June 4, 2003, and released June 20, 2003. The complete text of this Second Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554, and also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898 or via e-mail *qualexint@lol.com*. It is also available on the Commission's Web site at *http://www.fcc.gov.*

*Paperwork Reduction Act Analysis:* The actions taken in the *Second Report and Order* have been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA), Public Law No. 104–13, and found to impose new reporting requirements or burdens on the public. Implementation of these new or modified reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the PRA.

*Summary of Report and Order:* In this document, the Commission adopts a streamlined procedure for certain modifications of space station licenses, which it refers to as ''Fleet Management'' modifications. A space station operator may modify its license without prior authorization, but upon 30 days prior notice to the Commission and any potentially affected licensed spectrum user, provided that the operator meets the following requirements: (1) The space station licensee will relocate a Geostationary Satellite Orbit (GSO) space station to another orbit location that is assigned to that licensee; (2) the relocated space station licensee will operate with the same technical parameters as the space station initially assigned to that location, or within the original satellite's authorized and/or coordinated parameters; (3) the space station licensee certifies that it will comply with all the conditions of its original license and all applicable rules after the relocation; (4) the space station licensee certifies that it will comply with all applicable coordination agreements at the newly occupied orbital location; (5) the space station licensee certifies that it has completed any necessary coordination of its space station at the new location with other potentially affected space station operators; (6) the space station licensee certifies that it will limit operations of the space station to Tracking, Telemetry, and Control (TT&C) functions during the relocation and satellite drift transition period; and (7) the space station licensee certifies that the relocation of the space station does not result in a lapse of service for any current customer. The Commission also adopts rules to allow earth station operators that need to modify their licenses to repoint their antennas in response to a satellite Fleet Management modification to do so on a streamlined basis. Finally, the Commission extends its Fleet Management modification rules to non-U.S.-licensed satellites.

In addition, the Commission relaxes a licensing requirement for certain receive-only earth stations. Historically, receive-only earth stations receiving from non-U.S.-licensed satellites were required to be licensed. Under the rule revisions adopted here, receive-only

earth stations receiving from non-U.S.-licensed satellites authorized to provide service to the United States because they have been placed on the Permitted List are no longer required to be licensed. For more on the Permitted List, see 64 FR 61791, Nov. 15, 1999.

*Regulatory Flexibility Analysis: Final Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980, as amended (RFA)[1] requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that ''the rule will not have a significant economic impact on a substantial number of small entities.'' [2] The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [3] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[4] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[5]

In this Second Report and Order in IB Docket No. 02–34, the Commission adopts a streamlined procedure for space station license modification applications. The effect of these rule revisions is to reduce the administrative burdens associated with requesting space station modifications. In this Second Report and Order in IB Docket No. 00–248, the Commission eliminates a licensing requirement for certain receive-only earth stations. This will reduce the administrative burdens of those receive-only earth station owners. We expect that these changes will be minimal and positive. Therefore, we certify that the requirements of these Second Reports and Orders will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the Second Reports and Orders, including a copy of this final certification, in a report to Congress pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A). In addition, the Second Reports and Orders and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**. *See* 5 U.S.C. 605(b).

**Ordering Clauses**

Accordingly, *it is ordered,* pursuant to Sections 4(i), 7(a), 11, 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 161, 303(c), 303(f), 303(g), 303(r), that this Second Report and Order is hereby adopted.

*It is further ordered* that Part 25 of the Commission's rules is amended as set forth below. These rule revisions contain new or modified information collections that have not been approved by OMB. The Commission will publish a document in the **Federal Register** announcing the effective date of these rules.

*It is further ordered* that the revisions to part 25 adopted in this Second Report and Order and set forth below are contingent upon approval by the Office of Management and Budget.

*It is further ordered* that the Consumer Information Bureau, Reference Information Center, shall send a copy of this Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

*It is further ordered,* pursuant to § 0.261(a)(15) and § 1.2 of the Commission's rules, 47 CFR 0.261(a)(15), 1.2, that the Motion for Clarification and Declaratory Ruling filed by Home Box Office on January 4, 2000, is denied in part, to the extent indicated above.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 25 as follows:

## PART 25—SATELLITE COMMUNICATIONS

■ 1. The authority citation for part 25 continues to read as follows:

**Authority:** 47 U.S.C. 701–744. Interprets or applies sections 4, 301, 302, 303, 307, 309, and 332 of the Communications Act, as amended, 47 U.S.C. sections 154, 301, 302, 303, 307, 309, 332, unless otherwise noted.

■ 2. Amend § 25.117 by revising paragraph (d)(1) and adding (d)(3), to read as follows:

### § 25.117 Modification of station license.

* * * * *

(d)(1) Except as set forth in § 25.118(e), applications for modifications of space station authorizations shall be filed in accordance with § 25.114, but only those items of information listed in § 25.114 that change need to be submitted, provided the applicant certifies that the remaining information has not changed.

* * * * *

(3) In the event that a space station licensee provides notification of a planned license modification pursuant to § 25.118(e), and the Commission finds that the proposed modification does not meet the requirements of § 25.118(e), the Commission will issue a public notice announcing that the proposed license modification will be considered pursuant to the procedure specified in paragraphs (d)(1) and (d)(2) of this section.

* * * * *

■ 3. Amend § 25.118 by adding paragraph (c)(6), revising paragraph (d) and adding paragraph (e) to read as follows:

### § 25.118 Modifications not requiring prior authorization.

* * * * *

(c) * * *

(6) Earth station operators may change their points of communication without prior authorization, provided that the change results from a space station license modification described in paragraph (e) of this section, and the earth station operator does not repoint its antenna.

(d) Earth station licensees must notify the Commission using FCC Form 312 within 30 days after a modification described in paragraph (c) of this section is completed.

(e) *Space Station Modifications.* A space station operator other than a Direct Broadcast Service (DBS) or a Digital Audio Radio Service (DARS) satellite operator may modify its license without prior authorization, but upon 30 days prior notice to the Commission and any potentially affected licensed spectrum user, provided that the operator meets the following requirements:

(1) The space station licensee will relocate a Geostationary Satellite Orbit (GSO) space station to another orbit location that is assigned to that licensee;

(2) The relocated space station licensee will operate with the same technical parameters as the space station initially assigned to that location, or within the original satellite's authorized and/or coordinated parameters;

[1] The RFA, *see* 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104–121, 110 stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[2] 5 U.S.C. 605(b).

[3] 5 U.S.C. 601(6).

[4] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in Small Business Act, 15 U.S.C. 632).

[5] Small Business Act, 15 U.S.C. 632.

(3) The space station licensee certifies that it will comply with all the conditions of its original license and all applicable rules after the relocation;

(4) The space station licensee certifies that it will comply with all applicable coordination agreements at the newly occupied orbital location;

(5) The space station licensee certifies that it has completed any necessary coordination of its space station at the new location with other potentially affected space station operators;

(6) The space station licensee certifies that it will limit operations of the space station to Tracking, Telemetry, and Control (TT&C) functions during the relocation and satellite drift transition period; and

(7) The space station licensee certifies that the relocation of the space station does not result in a lapse of service for any current customer.

■ 4. Amend § 25.131 by revising paragraphs (b) and (j) to read as follows:

**§ 25.131 Filing requirements for receive-only earth stations.**

* * * * *

(b) Except as provided in paragraph (j) of this section, receive-only earth stations in the fixed-satellite service that operate with U.S.-licensed satellites may be registered with the Commission in order to protect them from interference from terrestrial microwave stations in bands shared co-equally with the fixed service in accordance with the procedures of §§ 25.203 and 25.251.

* * * * *

(j)(1) Except as set forth in paragraph (j)(2) of this section, receive-only earth stations operating with non-U.S. licensed space stations shall file an FCC Form 312 requesting a license or modification to operate such station.

(2) Receive-only earth stations used to receive transmissions from non-U.S.-licensed space stations on the Permitted Space Station List need not file for licenses, provided that:

(i) The earth station antenna meets the antenna performance standards set forth in §§ 25.209(a) and (b), and

(ii) The space station operator and earth station operator comply with all applicable rules set forth in this chapter, and the conditions on the Permitted Space Station List applicable to that space station.

■ 5. Amend § 25.137 by revising paragraph (f) to read as follows:

**§ 25.137 Application requirements for earth stations operating with non-U.S. licensed space stations.**

* * * * *

(f) A non-U.S.-licensed satellite operator that has been permitted to serve the United States pursuant to a Letter of Intent or Petition for Declaratory Ruling, may modify its U.S. operations under the procedures set forth in § 25.117(d). In addition, a non-U.S.-licensed satellite operator that has been permitted to serve the United States pursuant to a Petition for Declaratory Ruling, may modify its U.S. operations under the procedures set forth in § 25.118(e).

[FR Doc. 03–27217 Filed 10–31–03; 8:45 am]

BILLING CODE 6712–01–P

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

**[CC Docket No. 98–67; DA 03–3181; FCC 03–46]**

### Provision of Improved Telecommunications Relay Services and Speech-to-Speech for Individuals With Hearing and Speech Disabilities

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** In this document, the Commission announces that the Office of Management and Budget (OMB) has approved for three years the annual reporting requirement for IP Relay providers to submit a report to the FCC detailing the technical developments that have occurred to enable IP Relay providers to meet the TRS mandatory minimum standards waived in the *Order on Reconsideration* published at 68 FR 18825, April 16, 2003.

**DATES:** Annual reporting requirement published at 68 FR 18825, April 16, 2003, is effective November 3, 2003.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Dana Jackson or Janet Sievert of the Consumer & Governmental Affairs Bureau at (202) 418–2517 (voice), (202) 418–7898 (TTY).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Public Notice,* DA 03–3181, released on October 15, 2003, announcing OMB approval for three years the annual reporting requirement for IP Relay providers. The information collections were approved by OMB on September 26, 2003. OMB Control No. 3060–1043. The Commission publishes this notice of the effective date of the annual reporting requirement. If you have any comments on these burden estimates, or how we can improve the collection(s) and reduce the burden(s) they cause you, please write to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554. Please include the OMB Control Number, 3060–1043, in your correspondence. We will also accept your comments regarding the Paperwork Reduction Act aspects of the collections via the Internet, if you send them to *Leslie.Smith@fcc.gov* or call (202) 418–0217. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0531 (voice), (202) 418–7365 (TTY).

**Synopsis**

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received approval for three years from OMB on September 26, 2003, for the collection(s) of information contained the Commission's annual reporting requirement. The OMB Control Number is 3060–1043. The annual reporting burden for this collection(s) of information, including the time for gathering and maintaining the collection of information, is estimated to be: 4 respondents, an average of 10 hours per response per annum, for a total hour burden of 40 hours, and no annual cost.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB Control Number. The OMB Control Number is 3060–1043.

**List of Subjects in 47 CFR Part 64**

Individuals with disabilities, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 03–27512 Filed 10–31–03; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

**[I.D. 101603C]**

### Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fishery; Suspension of Minimum Surfclam Size for 2004

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

**ACTION:** Notice of suspension of surfclam minimum size limit.

**SUMMARY:** NMFS suspends the minimum size limit of 4.75 inches (12.07 cm) for Atlantic surfclams for the 2004 fishing year. This action is taken under the authority of the implementing regulations for this fishery, which allow for the annual suspension of the minimum size limit based upon set criteria. The intended effect is to relieve the industry from a regulatory burden that is not necessary, as the majority of surfclams harvested are larger than the minimum size limit.

**DATES:** Effective January 1, 2004, through December 31, 2004.

**FOR FURTHER INFORMATION CONTACT:** Heather L. Sagar, Fishery Management Specialist, 978–281–9341.

**SUPPLEMENTARY INFORMATION:** Section 648.72(c) of the regulations implementing the Fishery Management Plan (FMP) for the Atlantic Surfclam and Ocean Quahog Fisheries allows the Administrator, Northeast Region, NMFS (Regional Administrator) to suspend annually, by publication of a notification in the **Federal Register**, the minimum size limit for Atlantic surfclams. This action may be taken unless discard, catch, and survey data indicate that 30 percent of the Atlantic surfclam resource is smaller than 4.75 inches (12.07 cm) and the overall reduced size is not attributable to harvest from beds where growth of the individual clams has been reduced because of density-dependent factors.

At its June 2003, meeting, the Mid-Atlantic Fishery Management Council (Council) voted to recommend that the Regional Administrator suspend the minimum size limit. Commercial surfclam shell length data for 2003 were analyzed to determine the percentage of surfclams landed that were smaller than the minimum size requirement. The analysis indicated that 1.2 percent of the samples taken overall were composed of surfclams that were less than 4.75 inches (12.07 cm). Based on these data, the Regional Administrator adopts the Council's recommendation and suspends the minimum size limit for Atlantic surfclams from January 1, 2004, through December 31, 2004.

### Classification

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: October 27, 2003.

**Bruce C. Morehead,**

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

[FR Doc. 03–27514 Filed 10–31–03; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

**[Docket No. 030912231–3266–02; I.D. 090403A]**

**RIN 0648–AR43**

### Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Framework Adjustment 3

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

**ACTION:** Final rule; notification of scup Winter II quota adjustment and possession limit adjustment for 2003.

**SUMMARY:** NMFS issues this final rule to implement measures contained in Framework Adjustment 3 (Framework 3) to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) to allow the rollover of unused commercial scup quota from the Winter I period to the Winter II period, and to change the regulations regarding the scup commercial quota counting procedures. NMFS also adjusts the 2003 Winter II commercial scup quota and possession limit.

**DATES:** This rule is effective November 1, 2003, except for § 648.120(b)(4) and § 648.120(d)(5) which are effective April 1, 2004.

**ADDRESSES:** Copies of the Framework 3 document, including the Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA), and the Environmental Assessment, and other supporting documents for the framework adjustment are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901–6790. The Framework 3 document is also accessible via the Internet at *http://www.mafmc.org*. The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, public comments and responses contained in this final rule, and the summary of impacts and alternatives contained in this final rule. Copies of the small entity compliance guide are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin, Fishery Policy Analyst, (978) 281–9279, fax (978) 281–9135, e-mail *sarah.mclaughlin@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** This final rule implements measures contained in Framework 3 to the FMP. Details concerning the justification for and development of Framework 3 and the implementing regulations were provided in the preamble to the proposed rule (68 FR 55283, September 24, 2003) and are not repeated here.

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils. The management unit for scup (*Stenotomus chrysops*), specified in the FMP, is defined as U.S. waters of the Atlantic Ocean from 35°13.3′ N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, NC) northward to the U.S./Canada border. The FMP and its implementing regulations found at 50 CFR part 648, subparts A, G (summer flounder), H (scup), and I (black sea bass), describe the process for specifying annual commercial scup measures that apply in the Exclusive Economic Zone (EEZ). The states manage these fisheries within 3 miles of their coast, under the Commission's Interstate Summer Flounder, Scup, and Black Sea Bass FMP. The Federal regulations govern vessels fishing in the EEZ, as well as vessels possessing a Federal fisheries permit, regardless of where they fish.

The commercial scup fishery is managed under a system that allocates the annual quota to three periods: Winter I, January-April (45.11 percent); Summer, May-October (38.95 percent); and Winter II, November-December

(15.94 percent). During the Winter periods, the quota is monitored on a coastwide basis. During the Summer period, the quota is also monitored on a coastwide basis, but the Commission uses a state-by-state allocation system to help manage the Federal quota. The Federal commercial scup fishery is closed coastwide when the allocation for a period is reached. In addition, any overages during a quota period are subtracted from that period's allocation for the following year. Any quota overages by a state during the Summer period (whether or not the total Summer period quota is exceeded) are subtracted by the Commission from the state's Summer period share the following year. The current regulations do not allow for the transfer of quota between periods within a fishing year. The final rule to implement the 2003 annual quota specifications (68 FR 60, January 2, 2003) established possession limits of 15,000 lb (6,804 kg) per trip during Winter I and 1,500 lb (680 kg) during Winter II, and specified that the Winter I possession limit be reduced to 1,000 lb (454 kg) per trip when 80 percent of the commercial quota allocated to that period is projected to be harvested.

**Quota Rollover From Winter I to Winter II**

This final rule implements a process, for years in which the full Winter I commercial scup quota is not harvested, to allow unused quota from the Winter I period to be added to the quota for the Winter II period. During the development of this framework adjustment, the Council considered and analyzed three alternatives for unused Winter I quota: Taking no action, which would continue the current regulations without the ability to transfer unused quota between periods (Alternative 1); the proposed option (Alternative 2); and combining the Winter I and Winter II quotas into a single quota spanning the two periods (Alternative 3). A fourth option, to roll over unused quota from both the Winter I and Summer periods into Winter II, was considered but rejected for further analysis due to the impracticability of monitoring the Summer period quota through the end of the Summer period, calculating the amount of unused combined Winter I and Summer period quota, if any, and effecting the quota rollover prior to the beginning of the Winter II period. The proposed option was selected by the Council because, under Alternative 1, regulatory discarding in Winter II would continue to occur, and Alternative 3 would introduce the risk that the entire combined winter quota could be taken during Winter I, resulting in no fishery during Winter II. Additionally, it would be difficult to develop possession limits that would accommodate the merged periods under Alternative 3. Alternative 2 is not associated with any risk to the scup stock or stocks of other species, and should provide economic and social benefits while meeting the objectives of National Standard 1.

In addition, commercial possession limits for the Winter II period will be adjusted, based on the amount of quota rolled over from the Winter I period. It is the Council's intention that the quota rollover and any necessary possession limit adjustments will be accomplished via a notification of changes prior to the beginning of the Winter II fishery.

For 2003, the Winter II quota is 1,979,689 lb (897,981 kg), and the best available landings information indicates that 1,873,050 lb (849,601 kg) remain of the Winter I quota. Consistent with the intent of Framework 3, the full amount of unused 2003 Winter I quota is transferred to Winter II, resulting in a revised 2003 Winter II quota of 3,852,739 lb (1,747,573 kg). In addition to the quota transfer, the 2003 Winter II possession limit is increased to 4,000 lb (1,814 kg) per trip to provide an appropriate opportunity for fishing vessels to obtain the increased Winter II quota. For 2004 and future years, the Council will recommend Winter II possession limits, adjusted as appropriate based on the amount rolled over from Winter I to Winter II, as part of the annual commercial quota specification process.

**Quota Counting Procedures**

The distribution of scup is such that they are occasionally available in nearshore (state) waters prior to the beginning of the states' Summer period (May 1). This final rule implements a mechanism, for years when the Winter I commercial scup quota is completely harvested and the Winter I fishery is closed prior to April 15, and upon a state's written request, to allow for commercial landings of scup by state-only permitted vessels in said state that occur from April 15 through April 30 to be counted against that state's Summer quota allocation. Because harvest in state waters during the Summer period is under the jurisdiction of the Commission, this is primarily a Commission issue, but this final rule implements a change to the Federal regulations regarding the quota counting procedures to effect the change to the Commission allocation system.

During the development of this framework adjustment, the Council considered and analyzed two options for the quota counting procedures: A no-action alternative, which would not allow these landings to be counted against the Summer period quota, but would continue to require that they be recorded as an overage to the Winter I period quota; and the proposed option. The action implemented was selected by the Council because it would not alter the current quota period or allocations, would require only a minimal change to current Federal regulations, would reduce the negative effects associated with harvest demand when scup availability is high but landings are not allowed, and would not place the scup stock or stocks of other species at risk.

**Changes from the Proposed Rule**

As indicated in the proposed rule, the amount of unused Winter I quota to be transferred to Winter II has been updated based on the latest (and best available) landings information for the 2003 Winter I period. The resulting 2003 Winter II quota is 3,852,739 lb (1,747,573 kg) rather than 4,183,440 lb (1,897,576 kg) as originally proposed. The reason for the decrease is that, in preparation of the final rule, Winter I landings information from dealer weighout reports became available and were used, in combination with the Winter I interactive voice response data (used in preparation of the proposed rule), to best estimate total landings for the Winter I period.

For clarification purposes, in § 648.120(b)(2) and § 648.120(c), the terms ''landing limits'' and ''landings limits'' are changed to ''possession limits,'' and in the first sentence of § 648.120(d)(3), the phrase ''for each quota period'' is changed to ''for the Winter I period.'' The second sentence of § 648.120(d)(3) is corrected to clarify that if, in any year that the Regional Administrator determines that the landings of scup during Winter I are less than the Winter I quota for that year, he/she shall increase the Winter II quota for that year by the amount of the Winter I underharvest. The first sentence of § 648.120(d)(5) is corrected to clarify the process by which a state may apply to the Regional Administrator for authorization to count scup landings in state waters against the Summer period quota.

**Comments and Responses**

One comment was received on the proposed rule, although the comment did not specifically address the proposed scup action.

*Comment:* The commenter expressed general support for marine protected areas, reduction of commercial quotas in general, elimination of bottom trawling

and longlining, and better enforcement of fisheries regulations. The commenter also objected to NOAA Fisheries not accepting comments via e-mail on this action.

*Response:* This rule implements measures designed to provide for improved utilization of the Federal commercial scup quota, and to improve efficiency of this fishery. While NMFS acknowledges the importance of the issues raised by the commenter, this rule is not the proper mechanism to address these general issues.

**Classification**

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

During the Winter scup quota periods, the quota is monitored on a coastwide basis, and the commercial scup fishery is closed coastwide when the allocation for a period is reached. The current regulations do not allow for the transfer of quota between periods within the year. Underharvest of the Winter I quota occurred in 2002 and 2003, leaving available quota unused, whereas quota for the Winter II period has been harvested early each year since 1999. Under the current management system, negative economic impacts may result from early closure of the Winter II fishery. In an effort to lengthen the fishing season under a relatively small quota, a possession limit is implemented, but this can result in regulatory discards of fish caught in excess of the possession limit. Any overages during a Winter quota period are subtracted from the period's allocation for the following year.

This action relieves a restriction by implementing a process, for years in which the full Winter I commercial scup quota is not harvested, to allow unused quota from the Winter I period to be rolled over to the quota for the Winter II period. Without this action, the Winter II fishery must close when the initial Winter II quota is reached, even if substantial quota remains from the Winter I period. This action allows the Winter II fishery to remain open longer, by allowing vessels to take advantage of remaining Winter I quota. Commercial possession limits for the Winter II period also are adjusted upward, based on the amount of quota rolled over from the Winter I period, to allow for the landing of scup that were available during the 2003 Winter I period, but were not harvested. This action allows for improved coordination of timing of the fishery's harvest potential with the availability of the resource. Additionally, because the Winter II quota typically has been harvested before the end of the quota period, the rollover of quota from the Winter I period is expected to extend the Winter II season and have a positive economic impact on the ports and communities associated with the vessels participating in this fishery. Therefore, the 30–day delayed effectiveness period for the management measures regarding the quota rollover from Winter I to Winter II is not applicable, as this rule relieves restrictions pursuant to 5 U.S.C. 553(d)(1).

Included in this final rule is the Final Regulatory Flexibility Analysis (FRFA) prepared pursuant to 5 U.S.C. 604(a). The FRFA incorporates the IRFA, the comments and responses to the proposed rule, and the analyses completed in support of this action. A copy of the IRFA is available from the Council (see **ADDRESSES**).

The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated here.

**Final Regulatory Flexibility Analysis**

*Statement of Objective and Need*

A description of the reasons why this action is being taken, and the objectives of and legal basis for this final rule are explained in the preambles to the proposed rule and this final rule and are not repeated here.

*Summary of Significant Issues Raised in Public Comments*

One comment was received during the comment period on the proposed rule, although it did not pertain to the economic impacts of this rule. No significant issues were raised and, therefore, no changes to the proposed rule were required to be made as a result of public comments. For a summary of the comment received, refer to the section above titled ''Comments and Responses.''

*Description and Estimate of Number of Small Entities to which Rule Will Apply*

Federal Northeast permit data indicate that there were 878 vessels with scup commercial permits in 2001. This action could affect any commercial vessel holding an active Federal Northeast scup permit by providing permit holders with an increased opportunity to harvest scup during the Winter II period, if some portion of the Winter I quota for that year is unused. The Summer period allocation element of this action would affect only how certain landings are attributed, and would not affect the ability of vessels holding only a state permit to land and sell scup during a Federal closure.

*Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule.

**Description of the Steps Taken to Minimize Economic Impact on Small Entities**

It is not possible to further mitigate economic impacts on small entities because the Council selected the alternative with most positive economic impacts relative to the other alternatives determined to achieve the biological objectives. Specification of commercial quotas and possession limits is constrained by the conservation objectives of the FMP, and implemented at 50 CFR part 648 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Under the no-action quota rollover alternative, the current allocation system as specified in the FMP would remain unchanged, and any negative economic impacts associated with it could persist. More specifically, a portion of the annual quota allocated to Winter I may be left unharvested, which would result in foregone economic opportunities to the fishing industry. Additionally, the existing regulations require that once the Winter II quota has been achieved, additional scup captured by the fishery operating during that time of year be discarded.

Allowing the transfer of unused scup quota from the Winter I period to the Winter II period could potentially increase landings of scup during the Winter II period. Applying the nominal average ex-vessel price of scup for the 1998–2002 Winter II period of $0.80/lb ($1.76/kg), and assuming the transfer of 1,873,050 lb (849,601 kg), the additional amount of scup available for harvest during the 2003 Winter II period would be valued at approximately $1.5 million. If this increase in revenue is equally distributed among the 213 vessels that landed scup during the 2002 Winter II period, then overall ex-vessel gross revenues could increase by $7,034 per vessel. However, as it is possible that the average price for scup during Winter II may decrease, given the potential increase in scup landings, the estimate of the increase to ex-vessel gross revenues most likely represents an upper limit.

The proposed Winter II possession limit for 2003 of 4,000 lb (1,814 kg) per trip is not expected to impact the scup fishery negatively. In fact, the increased

possession limit may have positive impacts by providing the market a regular product supply, and avoiding market gluts and price fluctuations.

It is expected that the rollover of unused quota from Winter I to Winter II would reduce social burdens associated with early closures that may occur under the current system for managing scup, as it would preserve fishing opportunities that would not be available if the scup fishery was closed. By extension, it is expected that maintaining fishing opportunities would have a positive impact on the ports and communities associated with the vessels participating in this fishery.

The Council determined that the impacts of the combination of Winter I and Winter II into one period would be similar to those for the action implemented. However, under this alternative, it is possible that the entire quota could be harvested during Winter I. If this were to occur, fishermen would not be able to fish for scup during the Winter II period, potentially disrupting product supply, increasing discards, and contributing to price fluctuations, as well as severely constraining fishing opportunities for those fishermen that depend upon access to the Winter II quota period fishery. The Council selected the action being implemented under this final rule because it would provide the maximum economic benefit to the fishing industry by ensuring that any unused Winter I period scup quota would be made available in the Winter II period.

The change to the quota counting procedures is not expected to affect overall scup landings, as total landings would continue to be restricted to the annual commercial quota. It is possible that, if the Winter I fishery were closed and inshore fishermen were allowed to land and sell scup, scup prices could increase. However, given the short length of time that inshore fishermen would have to land any scup harvested during a Winter I closure, i.e., April 15 through April 30, it is not expected that the scup price would be significantly affected. Nevertheless, selling scup harvested by inshore fisheries prior to May 1 during a Winter I closure would likely provide economic and social benefits to inshore fisheries. It is possible that the preferred alternative could result in the Summer period quota being harvested earlier. This would depend on the amount of the Summer quota, numbers of fishermen that may participate in an early summer fishery, and/or the amount of scup that could potentially be landed after April 15 and prior to May 1 in the event of a Winter I closure. However, due to lack of information on these factors, this was not analyzed in detail.

*Small Entity Compliance Guide*

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide (the guide) was prepared. Copies of the guide will be sent to all holders of commercial Federal scup fishery permits. The guide will be available on the Internet at *http://www.nero.noaa.gov*. Copies of the guide can also be obtained from the Regional Administrator (see **ADDRESSES**).

**List of Subjects in 50 CFR Part 648**

Fishing, Fisheries, Reporting and recordkeeping requirements.

Dated: October 29, 2003.

**Rebecca Lent,**

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

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

## PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

■ 2. In § 648.120, paragraphs (b)(2), (b)(4), and (c) are revised; paragraph (d)(3) is redesignated as paragraph (d)(4) and the introductory text is revised; and new paragraphs (d)(3) and (d)(5) are added to read as follows:

### § 648.120 Catch quotas and other restrictions.

* * * * *

(b) * * *

(2) Possession limits for the Winter I and Winter II periods, including possession limits that result from potential rollover of quota from Winter I to Winter II. The possession limit is the maximum quantity of scup that is allowed to be landed within a 24–hour period (calendar day).

* * * * *

(4) All scup landed for sale in any state during a quota period shall be applied against the coastwide commercial quota for that period, regardless of where the scup were harvested, except as provided in paragraph (d)(5) of this section.

* * * * *

(c) *Annual fishing measures.* The Demersal Species Committee shall review the recommendations of the Scup Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall recommend to the MAFMC measures necessary to assure that the specified exploitation rate will not be exceeded. The MAFMC's recommendation must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Regional Administrator shall review these recommendations and any recommendations of the Commission. After such review, NMFS will publish a proposed rule to implement a commercial quota in the **Federal Register**, specifying the amount of quota allocated to each of the three periods, possession limits for the Winter I and Winter II periods, including possession limits that result from potential rollover of quota from Winter I to Winter II, the percentage of landings attained during the Winter I fishery at which the possession limits will be reduced, a recreational harvest limit, and additional management measures for the commercial fishery. If the Regional Administrator determines that additional recreational measures are necessary to assure that the specified exploitation rate will not be exceeded, he or she will publish a proposed rule in the **Federal Register** to implement additional management measures for the recreational fishery. After considering public comment, the Regional Administrator will publish a final rule in the **Federal Register** to implement annual measures.

(d) * * *

(3) The Regional Administrator will monitor the harvest of commercial quota for the Winter I period based on dealer reports, state data, and other available information and shall determine the total amount of scup landed during the Winter I period. In any year that the Regional Administrator determines that the landings of scup during Winter I are less than the Winter I quota for that year, he/she shall increase, through publication of a notification in the **Federal Register**, provided such rule complies with the requirements of the Administrative Procedure Act, the Winter II quota for that year by the amount of the Winter I underharvest.

The Regional Administrator shall also adjust, through publication of a notification in the **Federal Register**, the Winter II possession limits consistent with the amount of the quota increase, based on the possession limits established through the annual specifications-setting process.

(4) All scup landed for sale in any state during a quota period shall be applied against the coastwide commercial quota for that period, regardless of where the scup were harvested, except as provided in paragraph (d)(5) of this section. Any current year landings in excess of the commercial quota in any quota period will be deducted from that quota period's annual quota in the following year as prescribed below:

* * * * *

(5) During a fishing year in which the Winter I quota period is closed prior to April 15, a state may apply to the Regional Administrator for authorization to count scup landed for sale in that state from April 15 through April 30 by state-only permitted vessels fishing exclusively in waters under the jurisdiction of that state against the Summer period quota. Requests to the Regional Administrator to count scup landings in a state from April 15 through April 30 against the Summer period quota must be made by letter signed by the principal state official with marine fishery management responsibility and expertise, or his/her designee, and must be received by the Regional Administrator no later than April 15. Within 10 working days following receipt of the letter, the Regional Administrator shall notify the appropriate state official of the disposition of the request.

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[FR Doc. 03–27601 Filed 10–29–03; 3:15 pm]

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# Proposed Rules

Federal Register
Vol. 68, No. 212
Monday, November 3, 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 JUSTICE

## Drug Enforcement Administration

## 21 CFR Parts 1300, 1301, 1304, and 1307

**[Docket No. DEA–240P]**

**RIN 1117–AA75**

## Preventing the Accumulation of Surplus Controlled Substances at Long Term Care Facilities

**AGENCY:** Drug Enforcement Administration (DEA), Justice.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Because long term care facilities (LTCFs) generally do not have pharmacies on site and are not registered with DEA, they typically receive controlled substances prescribed for specific patients in 30 day supplies, although smaller supplies are sometimes used. As patients leave or their medication needs to be changed, the LTCFs accumulate stocks of excess controlled substances. The excess stocks can result in significant problems with waste and disposal and present opportunities for diversion of controlled substances. DEA is proposing changes to its existing regulations to allow, where State laws permit, for pharmacy installation of automated dispensing systems (ADSs) at LTCFs. Automated dispensing systems would allow dispensing of single dosage units and mitigate the problem of excess stocks and disposal.

**DATES:** Written comments must be postmarked on or before January 2, 2004.

**ADDRESSES:** Comments should be submitted to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: Federal Register Representative/CCR.

**FOR FURTHER INFORMATION CONTACT:** Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307–7297.

**SUPPLEMENTARY INFORMATION:**

### I. Background

*Legal Authority*

DEA enforces the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*), as amended. DEA regulations implementing this statute are published in Title 21 of the Code of Federal Regulations (CFR), Part 1300 to end. These regulations are designed to establish a framework for the legal distribution of controlled substances to deter their diversion to illegal purposes and to ensure that there is a sufficient supply of these drugs for legitimate medical purposes. Controlled substances are those substances listed in the schedules of the CSA and 21 CFR 1308.11–1308.15, and generally include narcotics, stimulants, depressants, hallucinogens, and anabolic steroids that have a high potential for abuse and dependency. DEA's regulations require that persons involved in the manufacture, distribution, research, dispensing, import, and export of controlled substances register with DEA, keep track of all stocks of controlled substances, and maintain records to account for all controlled substances received, distributed, or otherwise disposed of.

*Controlled Substances at Long Term Care Facilities (LTCFs)*

Patients at LTCFs receive numerous medications, including controlled substances. Unlike hospitals, LTCFs are rarely DEA registrants. Patients at these facilities are usually seen by their personal physicians, who prescribe any necessary medication. These prescriptions are filled by retail pharmacies and delivered to the LTCFs for patients' use. Because LTCFs are not registrants and generally do not have physicians or pharmacists on staff, they may not order and maintain stocks of controlled substances to be dispensed under the order of a practitioner as occurs in hospitals. Instead, the LTCF holds the controlled substance medications that are dispensed by prescription to the specific patients by a provider pharmacy in a custodial manner for administration to the patient. Any controlled substance medications that are not ultimately administered to the individual specific patient are waste that must be disposed of. Although DEA permits pharmacies to dispense a prescription for a LTCF patient on a daily or dosage unit basis rather than dispense the entire quantity prescribed, reimbursement rules under Medicare and Medicaid and other third party payors make daily dispensing financially unattractive for pharmacies; pharmacies are allowed a limited number of dispensing fees plus the calculated cost of the medication per month. As a consequence, pharmacies routinely dispense the entire prescription to the patient at once.

A result of this dispensing practice is that when patients leave the facility or their medications change, the LTCF is left with excess controlled substances, which must be disposed of to avoid diversion. Because they are not registrants, the LTCFs may not transfer the substances to either the pharmacy that supplied them or to a reverse distributor for disposal. The LTCF must dispose of the excess controlled substances directly.

*Previous DEA Actions*

DEA has frequently been asked to assist in resolving this matter. The principal concern has been to prevent the accumulation of controlled substances that are dispensed but not administered to the patient. DEA has attempted to address this problem through the establishment of partial dispensing provisions for Schedules II–V prescriptions (including unit-dose dispensing, if desired), to limit the quantity of controlled substances dispensed at one time and avoid waste if the treatment was changed or discontinued. According to the pharmacy industry, however, dispensing fees, reimbursement practices, and difficulties in educating practitioners regarding the need to prescribe controlled substances in anticipation of a patient's actual need for the controlled substance have, for the most part, precluded using that approach.

*Current DEA Regulations*

Although most LTCFs are not registered with DEA, DEA regulations allow a LTCF to register, if licensed by its State to handle controlled substances. DEA issues a registration in one of the following categories based upon the type of license/permit issued

by a State and the authorized activities associated with the license/permit:

• Retail pharmacy—A pharmacy located on-site at the LTCF maintains stocks of controlled substances and a pharmacist dispenses patient-specific controlled substances to residents of the LTCF who have prescriptions for the substances.

• Hospital/clinic—The LTCF maintains institutional stocks of controlled substances for dispensing by a pharmacist for administration to residents under medication orders from a practitioner.

• Mid-Level Practitioner—Controlled substance activities are limited to those authorized by the individual State.

• Practitioner—An individual practitioner, such as the Medical Director of the LTCF, registers at the site of the LTCF and is responsible for the handling of controlled substances utilized at the LTCF.

*Request for Information*

On April 25, 2001, DEA published a notice in the **Federal Register** (66 FR 20833) soliciting comments and suggestions on the problem of excess controlled substances at LTCFs. Almost two dozen comments were received from a range of organizations and individuals, including State agencies, automated dispensing system (ADS) manufacturers, trade associations, and pharmaceutical providers. Information received in response to that notice is discussed below.

## II. Discussion of the Proposed Rule

*DEA's Proposal*

To further address the issue of excess controlled substances in LTCFs, DEA is proposing to allow a provider pharmacy to register at the site of the LTCF and store controlled substances in an ADS. An ADS is conceptually similar to a vending machine. A pharmacy stores bulk drugs in the ADS in separate bins or containers and programs and controls the ADS remotely. Only authorized staff at the LTCF would have access to its contents, which are dispensed on a single-dose basis at the time of administration pursuant to a prescription. The ADS electronically records each dispensing, thus maintaining dispensing records for the pharmacy. Because the drugs would not be considered dispensed until the system provided them, drugs in the ADS would be pharmacy stock, not waste.

Specifically, DEA is proposing the definition of ''automated dispensing system'' as follows: ''a mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, packaging, counting, labeling, and dispensing of medications, and which collects, controls, and maintains all transaction information.''

The key elements of an automated dispensing system would be the following:

• State authorization for pharmacies to locate stock in the automated dispensing systems at the LTCF.

• Establishment through State regulation of the necessary and appropriate policies and protocols with respect to access to pharmacy stock by LTCF nursing personnel, ensuring secure storage of the controlled substances, transfer of the controlled substances from the primary pharmacy location to the LTCF site, and related issues.

• Issuance of a DEA registration to the provider pharmacy at the LTCF as a separate location, based on its current DEA registration and without additional application fees.

DEA is proposing to allow the use of automated dispensing systems as an option, not a requirement. DEA recognizes that there are reasons why ADSs may not work in many circumstances, but believes that some LTCFs will find ADSs a viable solution for preventing accumulation of excess controlled substances. This technology has a number of advantages, including the following:

• It can substantially reduce controlled substance waste, thereby providing significant cost savings to purchasers of controlled substances. It also can significantly reduce the time and other costs associated with maintaining patient medication stocks and disposal of excess stocks for LTCFs.

• With single-dose dispensing, secure storage, and controlled access, it can help to control drug inventory and increase accountability.

• With an increasing amount of controlled substances in use as the LTCF population grows, it can help control the opportunities for drug diversion.

• It recognizes advancements made in technology and provides the option of using the most current technology in a broader array of circumstances.

• With the current pharmacist shortage, it relieves dispensing pharmacists of a number of manual steps involved in drug handling.

• For consulting pharmacists in their responsibilities for drug regimen review, it provides enhanced tools with a full range of accurate data available online because the data are captured automatically.

## III. Use of Automated Dispensing Systems

*Existing State Laws and Regulations*

To implement this solution, States would need to grant approval (*i.e.*, a license, permit, or other authorization) for the provider pharmacy to function at the location of the LTCF using an ADS, and establish policies and procedures regarding system security, access, and the like. States could define such an operation so as to avoid the many peripheral requirements of traditional pharmacies such as sinks, reference books, etc.

*Other Options DEA Considered*

As solicited by the April 25, 2001, request for information, one commenter suggested that LTCFs should be able to obtain a limited registration for purposes of contracting with reverse distributors for waste disposal. DEA believes that, while this option has merit on the issue of disposal, it does not address control of waste and it potentially imposes additional disposal costs on LTCFs. Further, LTCFs would need state authorization to handle controlled substances in the manner envisioned here before DEA could issue them a DEA registration. In addition, LTCFs would be required to comply with DEA recordkeeping and reporting requirements.

Another suggestion was to address directly the problem of excess medications being sent to facilities in the first place. Specifically, the commenter suggested that practitioners' routine medication orders not be sent to the LTCF unless actually necessitated by the patient. A related suggestion was to change reimbursement standards that are, at least in part, responsible for the current situation. Unfortunately, these are not issues that DEA is empowered to address.

Yet another suggestion was to authorize limited permit pharmacies at LTCFs 2–3 days per week. It is unclear to DEA how this option of a ''part-time'' pharmacy resolves the current problems.

Finally, there were various suggestions about a pharmacy maintaining controlled substances as floor stock at LTCFs as an alternative to an ADS. DEA notes that this option would still require someone to be registered at the LTCF (either the pharmacy or the LTCF itself). The significant concern with this option is the need to maintain accountability and security for the controlled substances, which DEA believes is much easier to do with an ADS.

DEA is not opposed to making other options available to LTCFs and pharmacies, as long as they address the problems discussed in this proposal, maintain strict levels of security and accountability, and comply with Federal and State regulatory requirements.

*Other Comments on the April 25, 2001 Notice*

A number of commenters, including current ADS users, supported the option of using ADSs for controlled substances at LTCFs, believing they can reduce waste and disposal problems, eliminate opportunities for medication errors, improve patient care, and/or reduce diversion of controlled substances.

A number of commenters also suggested this was not a good idea, citing primarily one or more of the following reasons:

- ADSs are expensive to finance and maintain.
- State laws and regulations will need to be changed.
- Registration at each location would be burdensome and expensive.
- The logistics associated with use and maintenance of the systems are complicated.
- There are substantial security concerns. Commenters provided examples of where security issues (*e.g.*, diversion, misdispensing) have arisen.
- ADSs do not represent a total solution to waste/disposal problems.

Several of these concerns are addressed elsewhere in this preamble. To the extent DEA does not specifically address some of these issues, DEA would reiterate that it recognizes this option will not work in all situations. However, DEA believes that ADS systems should be an *option* to be used where it does make sense and is otherwise permissible.

*Medication Delivery Systems Currently Used by LTCFs*

DEA is not suggesting that unit-dose delivery systems or other medication delivery systems that most LTCFs use be replaced. DEA recognizes that the cost of an automated dispensing system as well as other requirements associated with its use at a LTCF may not be warranted in many cases. Therefore, the use of an automated dispensing system for storage and dispensing of controlled substances to residents of LTCFs would be an option available to the provider pharmacy.

*Specific Proposed Regulatory Changes*

Current Federal law does not prohibit the use of ADSs for storage and dispensing of controlled substances at LTCFs where the LTCF itself is a DEA registrant. However, to successfully implement the approach being proposed here requires several regulatory revisions:

- Section 1300.01 would be modified to include a definition of automated dispensing system.
- Section 1301.17 would be modified to incorporate an additional ''special procedure'' for the type of registrations that are the subject of this notice. Specifically, retail pharmacies applying for a separate registration to operate an ADS at a LTCF will need to provide as part of their registration application an affidavit attesting to the existence of a State license, permit, or other authorization for activities at the LTCF.
- Section 1301.27 would be added to indicate that only retail pharmacies may operate automated dispensing systems at long term care facilities. The section would further indicate that a retail pharmacy must maintain a separate registration at each long term care facility location at which automated dispensing systems are installed and operated, and that if more than one retail pharmacy operates an automated dispensing system at a long term care facility, each retail pharmacy must maintain its own separate registration at that facility. Finally, this section indicates that retail pharmacies applying for separate registrations to install and operate automated dispensing systems at long term care facilities would be exempt from application fees for those separate registrations.
- Section 1304.04 would be revised to permit a registered retail pharmacy with one or more associated registrations at LTCFs to keep all records for those LTCF locations at the retail pharmacy site or other approved central location.
- Since the provider pharmacy would likely be ordering controlled substances for multiple LTCFs that it services, § 1307.11(b) which limits total distribution by a practitioner to 5 percent of all controlled substances dispensed in the course of a year would be amended to provide an exemption for this activity.

**Regulatory Certifications**

*Regulatory Flexibility Act*

The Deputy Assistant Administrator, Office of Diversion Control, hereby certifies that this rulemaking has been drafted in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation, and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small business entities. This proposed rule provides the option of using an automated dispensing system to dispense controlled substances to patients at long term care facilities. Facilities which currently use automated dispensing systems for the dispensing of noncontrolled substances and, where permitted by DEA registration, for controlled substances report in industry literature that, while there are costs associated with the lease or purchase of an automated dispensing system, automated dispensing systems have the following benefits:

- Significantly reduce drug waste. Various studies over the past ten years have indicated that between 4 and 10 percent of medications at long term care facilities are wasted. Additional reports indicate that the use of an automated dispensing system reduces this waste by 90 percent.
- Significant cost savings for payors. As noted previously, automated dispensing systems have the potential to reduce the cost of medications dispensed because medications are dispensed in a ''just in time'' manner for administration rather than dispensing a larger quantity of medication less frequently, which can create waste.
- Reduce nursing and pharmacy labor costs. Nurses and pharmacy personnel no longer must prepare medications for dispensing to individual patients. Time is also saved by nursing staff due to the fact that medication administration records are now maintained electronically. Often, this time is then redirected to providing patient care.
- Reduce the potential for medication dispensing and administration errors. Automated dispensing systems provide greater accuracy in the dispensing and administration of medications.

Because the proposed rule does not require the use of automated dispensing systems, DEA believes that only pharmacies and LTCFs which find use of these systems cost-effective will adopt this approach.

*Executive Order 12866*

The Deputy Assistant Administrator, Office of Diversion Control, further certifies that this rulemaking has been drafted in accordance with the principles in Executive Order 12866 Section 1(b). It has been determined that this is not a significant regulatory action because it does not impose costs above $100 million a year or raise novel issues. Therefore, this action has not been reviewed by the Office of Management and Budget. Rather, this NPRM proposes to permit the installation of automated dispensing systems at long term care facilities by provider pharmacies, so long as state

regulations permit such installation. The use of automated dispensing systems by long term care facilities provides another alternative to address the problem of accumulation of surplus controlled substances at long term care facilities. DEA believes that persons choosing to utilize this method of dispensing controlled substances to patients at long term care facilities may realize cost savings. More importantly to DEA, the use of such systems should reduce the accumulation of excess controlled substances at these facilities, thereby reducing the potential for diversion of these controlled substances.

*Paperwork Reduction Act*

This rule proposes that a retail pharmacy currently registered with DEA would be required to apply for separate registration at the location of the long term care facility at which it intends to install and operate an automated dispensing system. Application for registration is made using currently existing DEA registration forms (DEA Form 224 for registration and 224A for registration renewal). DEA estimates that approximately 100 persons per year will apply for registration to operate automated dispensing systems at long term care facilities. Therefore, DEA is revising its OMB-approved information collection (OMB 1117–0014) to reflect this increased burden due to this program change.

Further, within this rulemaking DEA is proposing that at the time of application for this separate registration at the long term care facility by the retail pharmacy, the applicant must include with their application for registration (DEA Form 224) an affidavit as to the existence of State authorization to operate the automated dispensing system at the long term care facility. DEA has provided a format for the affidavit as part of its proposed regulations. This affidavit is exempt from the requirements of the Paperwork Reduction Act (5 CFR 1320.3(h)(1)).

*Executive Order 12988*

This proposed rule meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988.

*Executive Order 13132*

This rule does not preempt or modify any provision of State law; nor does it impose enforcement responsibilities on any State; nor does it diminish the power of any State to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

*Unfunded Mandates Reform Act of 1995*

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $113,000,000 or more (adjusted for inflation) in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

**List of Subjects**

*21 CFR Part 1300*

Definitions, Drug traffic control.

*21 CFR Part 1301*

Administrative practice and procedure, Drug traffic control, Security measures.

*21 CFR Part 1304*

Drug traffic control, Prescription drugs.

*21 CFR Part 1307*

Drug traffic control.

For the reasons set out above, 21 CFR parts 1300, 1301, 1304, and 1307 are proposed to be amended as follows:

## PART 1300—DEFINITIONS [AMENDED]

1. The authority citation for Part 1300 continues to read as follows:

**Authority:** 21 U.S.C. 802, 871(b), 951, 958(f).

2. Section 1300.01 is proposed to be amended by adding a new paragraph (b)(45) to read as follows:

### § 1300.01 Definitions relating to controlled substances.

* * * * *

(b) * * *

(45) The term automated dispensing system means a mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, packaging, counting, labeling, and dispensing of medications, and which collects, controls, and maintains all transaction information.

## PART 1301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES [AMENDED]

3. The authority citation for part 1301 continues to read as follows:

**Authority:** 21 U.S.C. 821, 822, 823, 824, 871(b), 875, 877, 956.

4. § 1301.17 is proposed to be revised by redesignating paragraph (c) as paragraph (d) and adding new paragraph (c) to read as follows:

### § 1301.17 Special procedures for certain applications.

* * * * *

(c) If at the time of application for a separate registration at a long term care facility, the retail pharmacy has been issued a license, permit, or other form of authorization from the appropriate State agency to install and operate an automated dispensing system for the dispensing of controlled substances at the long term care facility, the applicant must include with his/her application for registration (DEA Form 224) an affidavit as to the existence of the State authorization. Exact language for this affidavit may be found at the DEA Diversion Control Program web site. The affidavit must include the following information:

(1) The name and title of the corporate officer or official signing the affidavit;

(2) The name of the corporation, partnership or sole proprietorship operating the retail pharmacy;

(3) The name and complete address (including city, state, and Zip code) of the retail pharmacy;

(4) The name and complete address (including city, state, and Zip code) of the long term care facility for which DEA registration is sought;

(5) Certification that the named retail pharmacy has been authorized by the state Board of Pharmacy or licensing agency to install and operate an automated dispensing system for the dispensing of controlled substances at the named long term care facility (including the license or permit number, if applicable);

(6) The date on which the authorization was issued;

(7) Statements attesting to the following:

(i) The affidavit is submitted to obtain a Drug Enforcement Administration registration number;

(ii) If any information is false, the Administration may immediately suspend the registration for this activity

and commence proceedings to revoke under 21 U.S.C. 824(a) because of the danger to public health and safety;

(iii) Any false information contained in this affidavit may subject the person signing this affidavit and the above-named corporation/partnership/business to prosecution under 21 U.S.C. 843, the penalties for conviction of which include imprisonment for up to 4 years, a fine of not more than $30,000 or both;

(8) Signature of the person authorized to sign the Application for Registration for the named retail pharmacy;

(9) Notarization of the affidavit.

* * * * *

5. § 1301.27 is proposed to be added to read as follows:

**§ 1301.27 Separate registration by retail pharmacies for installation and operation of automated dispensing systems at long term care facilities.**

(a) A retail pharmacy may install and operate automated dispensing systems, as defined in § 1300.01 of this chapter, at long term care facilities, pursuant to the requirements of § 1301.17 of this part. No person other than a retail pharmacy may install and operate an automated dispensing system at a long term care facility.

(b) Retail pharmacies installing and operating automated dispensing systems at long term care facilities must maintain a separate registration at the location of each long term care facility at which automated dispensing systems are located. If more than one retail pharmacy operates automated dispensing systems at the same long term care facility, each retail pharmacy must maintain a registration at the long term care facility.

(c) A registered retail pharmacy applying for a separate registration to operate an automated dispensing system for the dispensing of controlled substances at a long term care facility is exempt from application fees for any such additional registrations.

## PART 1304—RECORDS AND REPORTS OF REGISTRANTS [AMENDED]

6. The authority citation for part 1304 continues to read as follows:

**Authority:** 21 U.S.C. 821, 827, 871(b), 958(e), 965.

7. § 1304.04 is proposed to be amended by revising paragraph (a) to read as follows:

**§ 1304.04 Maintenance of records and inventories.**

(a) Except as provided in paragraphs (a)(1) and (a)(2) of this section, every inventory and other record required to be kept under this part shall be kept by the registrant and be available, for at least 2 years from the date of such inventory or records, for inspection and copying by authorized employees of the Administration.

(1) Financial and shipping records (such as invoices and packing slips but not executed order forms subject to § 1305.13 of this chapter) may be kept at a central location, rather than at the registered location, if the registrant has notified the Administration of his intention to keep central records. Written notification must be submitted by registered or certified mail, return receipt requested, in triplicate, to the Special Agent in Charge of the Administration in the area in which the registrant is located. Unless the registrant is informed by the Special Agent in Charge that permission to keep central records is denied, the registrant may maintain central records commencing 14 days after receipt of his notification by the Special Agent in Charge. All notifications must include the following:

(i) The nature of the records to be kept centrally.

(ii) The exact location where the records will be kept.

(iii) The name, address, DEA registration number and type of DEA registration of the registrant whose records are being maintained centrally.

(iv) Whether central records will be maintained in a manual or computer readable form.

(2) A registered retail pharmacy that possesses additional registrations for automated dispensing systems at long term care facilities may keep all records required by this part for those additional registered sites at the retail pharmacy or other approved central location.

* * * * *

## PART 1307—MISCELLANEOUS [AMENDED]

8. The authority citation for Part 1307 continues to read as follows:

**Authority:** 21 U.S.C. 821, 822(d), 871(b).

9. § 1307.11 is proposed to be amended by adding a new paragraph (c) to read as follows:

**§ 1307.11 Distribution by dispenser to another practitioner or reverse distributor.**

* * * * *

(c) The distributions that a registered retail pharmacy makes to automated dispensing systems at long term care facilities for which the pharmacy also holds registrations do not count toward the 5 percent limit in paragraphs (a)(4) and (b) of this section.

Dated: October 24, 2003.

**Laura M. Nagel,**

*Deputy Assistant Administrator, Office of Diversion Control.*

[FR Doc. 03–27511 Filed 10–31–03; 8:45 am]

BILLING CODE 4410–09–P

## DEPARTMENT OF THE TREASURY

## Alcohol and Tobacco Tax and Trade Bureau

## 27 CFR Part 9

**[Notice No. 21]**

**RIN 1513–AA58**

## Proposed Ribbon Ridge Viticultural Area (2002R–215P)

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau has received a petition proposing the establishment of the ''Ribbon Ridge'' viticultural area in northern Yamhill County, Oregon, between Newberg and Gaston. This proposed viticultural area, which measures approximately 1.75 miles in width and 3.5 miles in length, lies approximately 22 miles southwest of Portland, Oregon, and 40 miles inland from the Pacific Ocean. As of 2002, at least 14 vineyards, totaling over 286 acres currently planted, plus 3 commercial wineries exist within the proposed boundaries of the Ribbon Ridge viticultural area. We believe the use of viticultural area names as appellations of origin in wine labeling and advertising helps consumers identify wines. It also allows wineries to better designate the specific grape-growing area in which their wine grapes were grown. We invite comments on this proposal.

**DATES:** We must receive written comments on or before January 2, 2004.

**ADDRESSES:** You may send comments to any of the following addresses—

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 50221, Washington, DC 20091–0221 (Attn: Notice No. 21);
- 202–927–8525 (facsimile);
- *nprm@ttb.gov* (e-mail); or
- *http://www.ttb.gov* (An online comment form is posted with this notice on our Web site).

You may view copies of the proposed regulations and any comments received on this notice online at *http://www.ttb.gov/alcohol/rules/index.htm* and by appointment at our reference

library, 1310 G Street, NW., Washington, DC 20005.

See the Public Participation section of this notice for specific instructions and requirements, and for information on how to request a public hearing.

**FOR FURTHER INFORMATION CONTACT:** Nancy Sutton, Specialist, Regulations and Procedures Division (Corvallis, Oregon), Alcohol and Tobacco Tax and Trade Bureau, 946 NW Circle Blvd. # 286, Corvallis, Oregon 97330; telephone 415–271–1254.

**SUPPLEMENTARY INFORMATION:**

## Background

### *Authority To Establish Viticultural Areas*

The Federal Alcohol Administration Act (FAA Act) at 27 U.S.C. 205(e) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity, while prohibiting the use of misleading information on such labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out the FAA Act's provisions, and the Secretary has delegated this authority to the Alcohol and Tobacco Tax and Trade Bureau (TTB).

Regulations in 27 CFR part 4, Labeling and Advertising of Wine, allow the establishment of definitive viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. A list of approved viticultural areas is contained in 27 CFR part 9, American Viticultural Areas.

### *Definition of an American Viticultural Area*

Title 27 CFR, section 4.25(e)(1), defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features, the boundaries of which have been delineated in subpart C of part 9. These designations allow consumers and vintners to attribute a given quality, reputation, or other characteristic of the wine made from grapes grown in a viticultural area to its geographic origin. We believe that the establishment of viticultural areas allows wineries to describe more accurately the origin of their wines to consumers and helps consumers identify the wines they purchase. Establishment of a viticultural area is neither an approval nor endorsement by TTB of the wine produced there.

### *Requirements To Establish a Viticultural Area*

Section 4.25(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition TTB to establish a grape-growing region as a viticultural area. The petition must include:

(a) Evidence that the name of the proposed viticultural area is locally or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence that the proposed area's growing conditions, such as climate, soil, elevation, physical features, etc. distinguish it from surrounding areas;

(d) A description of the specific boundaries of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps of the largest applicable scale; and

(e) A copy (or copies) of the appropriate USGS map(s) with the boundaries prominently marked.

### *Impact on Current Wine Labels*

As appellations of origin, viticultural area names have geographic significance. Our 27 CFR part 4 label regulations prohibit the use of a brand name with geographic significance on a wine unless the wine meets the appellation of origin requirements for the named area. Our regulations also prohibit any other label references that suggest an origin other than the true place of origin of the wine.

If we establish this proposed viticultural area, bottlers who use brand names, including trademarks, like Ribbon Ridge must ensure that their existing products are eligible to use the viticultural area's name as an appellation of origin. For a wine to be eligible, at least 85 percent of the grapes in the wine must have been grown within the viticultural area, and the wine must meet the other requirements of 27 CFR 4.25(e)(3).

If the wine is not eligible for the appellation, the bottler must change the brand name or other label reference and obtain approval of a new label. Different rules apply to a wine in this category bearing a brand name that was used on a label approved prior to July 7, 1986. *See* 27 CFR 4.39(i) for details.

## Ribbon Ridge Petition

### *General Information*

We have received a petition from Alex Sokol-Blosser, secretary of the North Willamette Valley AVA Group, proposing a new viticultural area to be called the ''Ribbon Ridge.'' Harry Peterson-Nedry and Doug Tunnell authored the petition. This proposed viticultural area, located in the northern part of Yamhill County, Oregon, between Newberg and Gaston, approximately 22 miles southwest of Portland, Oregon, and 40 miles inland from the Pacific Ocean. Measuring approximately 1.75 miles in width and 3.5 miles in length, the proposed area includes a total of 3,350 acres (5.25 square miles), of which 1,000 to 1,400 acres are suited to premium wine grape planting. As of 2002, at least 14 vineyards, totaling over 286 acres currently planted, plus 3 commercial wineries exist within the proposed boundaries of the Ribbon Ridge viticultural area. Four additional vineyards and three additional wineries are currently in the planning stage and should be developed within the next 3 years. If established, they would fall within the proposed viticultural area.

The proposed Ribbon Ridge viticultural area consists of a 3.5- by 1.75-mile distinct ridge that is separate from the higher surrounding landmass. It has significant, marked drainage on all sides and is a single, evident landmass of uniform shape and composition that differs from the hillside sites in the vicinity. The petitioners decided to use physical features, soil, and to a lesser extent, elevation and climate, as the primary factors in defining the boundaries of the proposed area.

### *Evidence That the Name of the Area Is Locally or Nationally Known*

The petitioners state the geological formation on which the proposed viticultural area is located has been continuously referred to as Ribbon Ridge since before 1888. Ribbon Ridge was given its name by Colby Carter, an early settler who came from Missouri in 1865. Since that time, the formation has been consistently referred to as Ribbon Ridge and is so identified on USGS and other maps. The first official use of the name ''Ribbon Ridge'' in conjunction with this area dates to 1888 with the creation of the Ribbon Ridge School District #68 by Yamhill County Schools. The school began operations in 1889 and was in use through at least 1953.

A reference to Ribbon Ridge appeared in the ''Oregon Historical Quarterly,'' Vol. XLIV, page 307, March–December 1943: ''Ribbon Ridge is a spur in the southwest part of the Chehalem Mountains, about east of Yamhill. The top of the ridge twists like a ribbon, hence the name.'' The petitioners provided evidence that Ribbon Ridge is an official location name in Oregon and the United States. It is registered in the

Department of Interior and U.S. Geological Survey's Geonames database.

The term ''Ribbon Ridge'' figures prominently on the USGS Dundee Quadrangle map submitted with this petition.

*Historical or Current Evidence That Supports the Proposed Boundaries*

The petitioners assert that the proposed viticultural area is an evident landmass of uniform shape and composition that differs from the hillside sites in the vicinity, which are appropriate for wine grapes in historical, climatic, and geological ways. Ribbon Ridge has been known as a distinct farming district, with its own name and its own mix of crops, ranging from walnuts, prunes, hazelnuts, hay, Christmas trees, timber lots, and cattle for more than a century. Many of these require the warmth and protection of the hillside site for economic distinction. Farmers from Ribbon Ridge are reported to have willingly differentiated themselves from adjoining areas such as Chehalem Valley, Kings Grade, and Rex Hills, even to the extent of establishing a separate school, when others existed in immediately adjacent areas.

Further, the petitioners offer evidence that, geographically, the proposed area is differentiated and separated from adjoining farming regions by the regularity and unaltered nature of the island-like ridge, its position as a mass broken free from other uplifts or larger hillsides, and the clean division its drainage system makes around the full perimeter of the landmass. Specifically, the Chehalem Creek Valley is deep, wide, and severely sloped on Ribbon Ridge's western flank. Where the Creek exits the hills, the Chehalem Valley is wide and flat at the 200-foot level to the south of Ribbon Ridge. Dopp and Ayres Creeks originate on the flank of the Chehalem Mountains underneath Bald Peak, flowing westward to accumulate Ribbon Ridge's drainage, and then diverging to the south and north, achieving the complete segregation of the ridge on the northwest side at an elevation of approximately 400 feet.

Roads have historically been built at the low spots around the ridge, and Dopp, Albertson, and North Valley Roads encircle Ribbon Ridge completely. Ribbon Ridge Road dissects the landmass, running the spine of the Ridge lengthwise, north to south. The petitioners state Ribbon Ridge is clearly defined by both elevation and Yamhill County roads. The proposed viticultural area is defined as the area at 240 feet in elevation or above, enclosed by the 10-mile county road loop.

Vineyard activity began on Ribbon Ridge in 1980 with the planting of Ridgecrest Vineyards. The first commercial vineyard was established in 1982 with the planting of 54 acres of Pinot Noir and Chardonnay. Yamhill Valley Vineyards first used grapes from these vineyards in wine production in 1985. It is estimated that between 1,000 and 1,400 acres in the proposed Ribbon Ridge viticultural area are suited to premium wine grape planting. Fourteen vineyards and three wineries are currently located on Ribbon Ridge, with 286 acres currently planted. Four additional vineyards and three additional wineries are currently in the planning stage and should be developed within the next 3 years. Vineyards or winery operations now own in excess of 700 total acres on Ribbon Ridge.

*Evidence of Distinctive Geographical Features*

The petitioners state that the proposed Ribbon Ridge viticultural area's boundaries are based primarily on a combination of topographic, elevation, and climatic factors that contrast with the surrounding Willamette Valley, Coast Range, and Columbia Gorge.

Physical Features

The petitioners assert that Ribbon Ridge, from the air, appears as an island that has broken off from the higher landmasses that surround it and floats freely above the Chehalem Valley floor. It extends southward from the Chehalem Mountains and rises above the floor of the Valley. Ribbon Ridge Road runs north to south along its spine. Ribbon Ridge is defined on the east and west by the watersheds that fall away from the road in both directions. It is separated from the Chehalem Mountains by Ayres Creek on the north and a creek known locally as Dopp Creek, which runs parallel to Dopp Road on the east and flows south to form the eastern boundary. On the western side of Ribbon Ridge, the Chehalem Creek Valley dramatically separates the proposed area from the Coast Range hillsides that are associated with the Yamhill-Carlton District. There is a gorge-like drop of 300 feet or more into the narrow quarter-mile ravine that widens at the foot of Ribbon Ridge into the broad, flat Chehalem Valley dividing the Chehalem Mountains from the Red Hills of Dundee area. This feature, more than any other, shows the separate nature of Ribbon Ridge's formation as an uplifted landmass of unique origin.

Soil

The petitioners state that the soils of Ribbon Ridge are relatively uniform, all being marine sedimentary and fine-textured (mainly Willakenzie series) at plantable elevations, without significant alterations from slides and erosion. Specifically, Ribbon Ridge is a distinct, natural, geological formation of eastward-tilted marine sedimentary strata dated to the upper Eocene. The Keasey Formation, exposed on the western side of the Ridge, is laminated to massive, pale gray, tuffaceous mudstone, to fine tuffaceous sandstone. The overlying Pittsburgh Bluffs Formation, exposed in the central and eastern side of the Ridge, is a massive to thick-bedded gray to tan, weathering, feldpathic litharenite with tuffaceous mudstone and sandstone. The petitioners assert that within the region Ribbon Ridge is unusual in the presence of only these two geological strata and the intact nature of these formations.

Further, they contend that, because the ridge is ancient and stable, the soils from these fine sedimentary parent materials are well weathered and consequently are, on average, deeper in profile and more finely structured than soils in surrounding areas.

As a consequence of its geological history, the soils of Ribbon Ridge are distinct from those of adjacent vineyards in several significant ways. Unlike the Chehalem Mountains to the north and east, the soils of ribbon Ridge are entirely derived from marine sedimentary parent materials. They are distinctly different from the alluvial sedimentary soils that constitute, in part or entirely, areas to the east of Ribbon Ridge or to the south in the Chehalem Valley flood plain. They are different from the adjacent volcanic soils in the proposed Chehalem Mountains and Red Hills of Dundee American viticultural areas. The petitioners also offered evidence that the soils of Ribbon Ridge are related but distinctly different from the marine sedimentary hillsides (mainly Willakenzie and Peavine Series) to the west of Chehalem Creek Gorge in the proposed Yamhill-Carlton area in that they are younger, finer, and more uniform due to finer parent materials of sandstone, siltstone, and mudstone.

Elevation

The petitioners state the proposed Ribbon Ridge viticultural area extends southward from the Chehalem Mountains and rises above the floor of the Chehalem Valley from approximately 200 feet to an elevation of 683 feet. The proposed area is defined as 240 feet in elevation or higher and is enclosed by a 9.85-mile county road loop. The area contains south-sloped plantings at elevations high enough to avoid valley soils (over 240 feet) but

beneath the cooling effects of higher elevation (maximum height of area is 683 feet). The area between these two elevation lines receives maximum heat accumulation, as well as good air and water drainage.

Degree-day accumulations in the proposed area average 2,455, as compared to 2,541 at McMinnville (southwest of Ribbon Ridge) and 2,650 at Portland (northeast of Ribbon Ridge). The data on Ribbon Ridge is typical of hillside sites with earlier starts to warming, less nighttime temperature drops, and clipped heat spikes in midsummer that provide a consistent climate for adequate ripening. According to the petitioners, these features allow longer, cooler growing seasons, which are ideal for delicate varietals like Pinot Noir, Chardonnay, and Pinot Gris.

To the best of their knowledge, the petitioners state that all of the existing vineyards in the proposed viticultural area are located between 240 to 680 feet. Further, they believe the 240-foot contour line minimum height boundary will exclude alluvial soils, which are not best suited for viticulture.

Climate

The petitioners state that Ribbon Ridge's island-like characteristics and the proximity of surrounding landmasses tend to shield and uniquely protect the proposed area from many of the extremes that affect the other agricultural microclimates in the northern Willamette Valley. Air and water drainage exist on all sides. Low clouds tend to accumulate on the surrounding hilltops; fog tends to settle on the valley floor in early and late parts of the growing season. The Coast Range and Yamhill mountains to the west encourage weather systems to drop moisture before reaching Ribbon Ridge and to moderate wind extremes from Pacific storms. The Chehalem Mountains, Bald Peak, and Portland hill systems to the north tend to protect this area from the Columbia Gorge and eastern Oregon weather systems that deliver cold in the winter and heat or winds in the summer. The Dundee Hills to the south shield Ribbon Ridge from extreme winds that funnel coastal weather systems through the Van Duzer corridor, whether hot, cold, or wet in the summer or winter.

The petitioners provided an analysis of compiled daily weather data comparing exposed valley floor weather stations such as Salem (south of Ribbon Ridge), McMinnville (southwest of Ribbon Ridge), and Portland Airport (east of Ribbon Ridge) to hillside vineyard stations on Ribbon Ridge (Whistling Ridge). The analysis indicates a tendency towards slightly warmer and drier conditions on grape-growing hillsides of the northern valley, such as the proposed Ribbon Ridge viticultural area. These apparent differences are even more significant during the grape-growing season (April–October), when the nature of hillside warming is especially important in achieving ripening similar to that of warm valley sites without the risk of frost or the problems of excess soil moisture. Specifically, hillside data showed higher minimum (2–3 °F) and maximum (2–7 °F) daily temperatures during early and late growing seasons than those of exposed valley floor sites. This moderation permits early growth in the spring, consistent and even ripening with retention of acids over the summer, and a long, full ripening in the fall.

The petitioners supplied data suggesting precipitation on protected hillsides in the Ribbon Ridge area is up to 10 inches less, approximately 25 percent, than it is on unprotected valley sites. Growing season precipitation is reduced even farther, with 7.7 inches accumulated April–October on average, or approximately 35 percent reduction from the Coast Range or valley floor sites. For example, the annual rainfall at Whistling Ridge in the proposed Ribbon Ridge viticultural area averages 29 inches as compared to 36 inches for the Portland International Airport, (located east of the proposed area), 39 inches for Salem (south of Ribbon Ridge), while the Coast Range, located west of the Ribbon Ridge, has an average range of 80 inches to more than 100 inches per year. Further, the petitioners state that Ribbon Ridge's annual rainfall is less than other wine growing regions in the immediate vicinity, such as Yamhill-Carlton District's 42 inches, Chehalem Mountains' 37–60 inches, and Dundee Hills' 30–45 inches.

**Proposed Boundaries**

The USGS maps required for determining the boundary of the proposed Ribbon Ridge viticultural area are:

(1) Laurelwood Quadrangle, Oregon, 7.5 Minutes Series, 1956, revised 1978; and

(2) Dundee Quadrangle, Oregon, 7.5 Minute Series, 1956, revised 1993.

A complete description of the proposed area's boundaries is found in the proposed rule text below.

**Public Participation**

*Comments Sought*

We request comments from anyone interested. Please support your comments with specific information. Examples include name evidence and data about growing conditions or area boundaries. All comments must include your name and mailing address, reference this notice number, and be legible and written in language generally acceptable for public disclosure.

Although we do not acknowledge receipt, we will consider your comments if we receive them on or before the closing date. We will consider comments received after the closing date if we can. We regard all comments as originals.

*Confidentiality*

We do not recognize any submitted material as confidential. All comments are part of the public record and subject to disclosure. Do not enclose in your comments any material you consider confidential or inappropriate for disclosure.

*Submitting Comments*

You may submit comments in any of four ways.

- *By mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.
- *By facsimile:* You may submit comments by facsimile transmission to 202–927–8525. Faxed comments must—

(1) Be on 8.5 by 11-inch paper;

(2) Contain a legible, written signature; and

(3) Be five or less pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.

- *By e-mail:* You may e-mail comments to *nprm@ttb.gov.* Comments transmitted by electronic-mail must—

(1) Contain your e-mail address;

(2) Reference this notice number on the subject line; and

(3) Be legible when printed on 8.5 by 11-inch paper.

- *By online form:* We provide a comment form with the online copy of this proposed rule. See the TTB Internet Web site at *http://www.ttb.gov/alcohol/rules/index.htm* and select ''Send comments via e-mail'' under this notice number.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

*Disclosure*

You may view copies of the petition, the proposed regulations, the appropriate maps, and any comments by

appointment in our library at 1310 G Street, NW., Washington, DC 20005. You may also obtain copies at 20 cents per page. Telephone our librarian at 202–927–8210 if you want to schedule an appointment or to request copies of comments.

For your convenience, we will post comments received in response to this notice on the TTB Web site. We may omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in our reference library. To view the online copies of the comments on this rulemaking, visit *http://www.ttb.gov/alcohol/rules/index.htm* and select the ''View comments'' link under this notice number.

**Regulatory Analyses and Notices**

*Paperwork Reduction Act*

We propose no requirement to collect information. Therefore, the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, and its implementing regulations, 5 CFR part 1320, do not apply.

*Regulatory Flexibility Act*

We certify that this proposed regulation, if adopted, will not have a significant economic impact on a substantial number of small entities. This proposed regulation imposes no new reporting, recordkeeping, or other administrative requirements. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

*Executive Order 12866*

This proposed rule is not a significant regulatory action, as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

**Drafting Information**

The principal author of this document is B.J. Kipp, Regulations and Procedures Division (Portland, Oregon), Alcohol and Tobacco Tax and Trade Bureau.

**List of Subjects in 27 CFR Part 9**

Wine.

**Authority and Issuance**

For the reasons discussed in the preamble, we propose to amend title 27, Code of Federal Regulations, part 9, American Viticultural Areas, as follows:

## PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

**Authority:** 27 U.S.C. 205.

2. Subpart C is amended by adding Section 9.____ to read as follows:

### Subpart C—Approved American Viticultural Areas

* * * * *

**§ 9.____ Ribbon Ridge.**

(a) *Name.* The name of the viticultural area described in this section is ''Ribbon Ridge''.

(b) *Approved Maps.* The appropriate maps for determining the boundary of the Ribbon Ridge viticultural area are two 1:24,000 scale, United States Geological Survey, topographic maps. They are:

(1) Laurelwood Quadrangle, Oregon, 7.5 Minutes Series, 1956, photorevised 1978; and

(2) Dundee Quadrangle, Oregon, 7.5 Minute Series, 1956 (revised 1993).

(c) *Boundaries.* Ribbon Ridge viticultural area, located in northern Yamhill County, Oregon, between Newberg and Gaston, consists of the land at 240 feet in elevation or above within this 9.85-mile circumferential county road loop:

(1) The point of beginning is on the Laurelwood Quadrangle map, in Yamhill County, section 58, R3W, T2S, where the 240-foot contour line intersects with North Valley Road at the southern edge of the map;

(2) Proceed north 0.6 miles along the North Valley Road until it intersects with Albertson Road (shown but unnamed on the Laurelwood Quadrangle);

(3) Proceed east 0.2 miles along Albertson Road until it intersects with Dopp Road. (Approximate elevation ranges from 220 to 240 feet over this distance.);

(4) Proceed south, then east, and then south again 1.6 miles along Dopp Road (beside Ayres Creek) to the southern edge of the map, section 53, R3W, T2S. (Approximate elevation ranges from 220 to 460 feet over this distance.);

(5) Continue on the Dundee Quadrangle map, section 53, R3W, T2S. Proceed south 2.15 miles on Dopp Road to slightly south of the intersection of Dopp Road and Calkins Lane where the 240-foot contour line crosses Dopp Road. (Elevation ranges approximately 400–240 feet over this distance.);

(6) Proceed south on Dopp Road 1.1 miles to its intersection with North Valley Road. (Elevation ranges from 180 to 260 feet over this distance.);

(7) Proceed west on North Valley Road 1.0 miles to its intersection with Ribbon Ridge Road. (Elevation ranges from 180 to 260 feet over this distance.); and

(8) Proceed generally north on North Valley Road 3.2 miles to the northern edge of the Dundee Quadrangle to where the 240-foot contour line intersects with North Valley Road (the point of beginning), section 58, R3W, T2S. (Approximate elevation ranges from 180 to 220 feet over this distance.).

Signed: October 1, 2003.

**Arthur J. Libertucci,**

*Administrator.*

[FR Doc. 03–27586 Filed 10–31–03; 8:45 am]

BILLING CODE 4810–31–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[KY145–200339(b); FRL–7582–5]**

### Approval and Promulgation of Implementation Plans for Kentucky; Permit Provisions for Jefferson County, KY

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the Jefferson County, Kentucky portion of the Kentucky State Implementation Plan (SIP) which amends four regulations of the Metro Louisville Air Pollution Control District (MLAPCD). The four MLAPCD regulations being revised are: Regulation 1.08, ''Administrative Procedures,'' Regulation 2.05, ''Prevention of Significant Deterioration of Air Quality,'' Regulation 2.09, ''Causes for Permit Modification, Revocation, or Suspension,'' and Regulation 2.17, ''Federally Enforceable District Origin Operating Permits.'' In the Final Rules Section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this rule. The EPA will not institute a second

comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Written comments must be received on or before December 3, 2003.

**ADDRESSES:** Comments may be submitted by mail to: Michele Notarianni, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in the direct final rule, **SUPPLEMENTARY INFORMATION** (sections I. B.1. through 3.), which is published in the Rules Section of this **Federal Register**

**FOR FURTHER INFORMATION CONTACT:** Michele Notarianni, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Phone: (404) 562–9031. E-mail: *notarianni.michele@epa.gov.*

**SUPPLEMENTARY INFORMATION:** For additional information, see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: October 21, 2003.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 03–27552 Filed 10–31–03; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

**[AZ 115–0058b; FRL–7574–1]**

### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Arizona

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve the maintenance plan for the Ajo area in Arizona and grant the request submitted by the State to redesignate this area from nonattainment to attainment for the National Ambient Air Quality Standards for sulfur dioxide ($SO_2$).

**DATES:** Comments on this proposal must be received by December 3, 2003.

**ADDRESSES:** Comments should be mailed or emailed to Wienke Tax, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, *tax.wienke@epa.gov.* Comments may also be submitted through *http://www.regulations.gov.* We prefer electronic comments. You can inspect copies of EPA's **Federal Register** document and Technical Support Document (TSD) at our Region IX office during normal business hours (see address above). Due to increased security, we suggest that you call at least 24 hours prior to visiting the Regional Office so that we can make arrangements to have someone meet you. The **Federal Register** notice and TSD are also available as electronic files on EPA's Region 9 Web Page at *http://www.epa.gov/region09/air.*

Copies of the State Implementation Plan (SIP) materials are also available for inspection at the address listed below: Arizona Department of Environmental Quality, 1110 W. Washington Street, First Floor, Phoenix, AZ 85007, Telephone (602) 771–4335.

**FOR FURTHER INFORMATION CONTACT:** Wienke Tax, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region 9, P.O. Box 86825, Tucson, AZ 85754–6825. Telephone: (520) 622–1622. E-mail: *tax.wienke@epa.gov*, or check *http://www.epa.gov/region09/air*

**SUPPLEMENTARY INFORMATION:** In the Rules and Regulations section of this **Federal Register**, we are approving the maintenance plan for the Ajo $SO_2$ nonattainment area. We are also approving the State of Arizona's request to redesignate the Ajo area from nonattainment to attainment for the primary $SO_2$ NAAQS. We are taking these actions without prior proposal because we believe that the revision and request are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: September 25, 2003.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 03–27264 Filed 10–31–03; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

**[FRL–7581–8]**

### South Dakota: Final Authorization of State Hazardous Waste Management Program Revision

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

**ACTION:** Proposed rule.

**SUMMARY:** South Dakota has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization and is proposing to authorize the State's changes through this proposed final action.

**DATES:** Written comments must be *received* by December 3, 2003.

**ADDRESSES:** Copies of the South Dakota program revision applications and the materials which EPA used in evaluating the revisions are available for inspection and copying at the following locations: EPA Region VIII, from 7 AM to 4 PM, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, contact: Kris Shurr, phone number: (303) 312–6139, e-mail: *shurr.kris@epa.gov* or SDDENR, from 9 AM to 5 PM, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota 57501–3181, contact: Carrie Jacobson, phone number (605) 773–3153. Send written comments to Kris Shurr, 8P–HW, U.S. EPA, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, phone number: (303) 312–6139 or electronically to *shurr.kris@epa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Kris Shurr, 8P–HW, U.S. EPA, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, phone number: (303) 312–6139 or *shurr.kris@epa.gov.* Written comments *must be received* by December 3, 2003.

**SUPPLEMENTARY INFORMATION:**

#### A. Why Are Revisions to State Programs Necessary?

States which have received Final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State

statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

**B. What Decisions Have We Made in This Proposed Rule?**

We conclude that South Dakota's applications to revise its authorized program meet all of the statutory and regulatory requirements established by RCRA. Therefore, we propose to grant South Dakota final authorization to operate its hazardous waste program with the changes described in the authorization applications. South Dakota has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders, except in Indian Country, and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in South Dakota, including issuing permits, until South Dakota is authorized to do so.

**C. What Is the Effect of Today's Authorization Decision?**

This decision means that a facility in South Dakota subject to RCRA will have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. South Dakota has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Conduct inspections; require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements; suspend or revoke permits; and,
- Take enforcement actions regardless of whether South Dakota has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which South Dakota is being authorized by today's action are already effective and are not changed by today's action.

**D. What Happens if EPA Receives Comments That Oppose This Action?**

If EPA receives comments that oppose this authorization, we will address all public comments in a later **Federal Register**. You will not have another opportunity to comment, therefore, if you want to comment on this action, you must do so at this time.

**E. What Has South Dakota Previously Been Authorized for?**

South Dakota initially received Final authorization on October 19, 1984, effective November 2, 1984 (49 FR 41038) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on April 17, 1991, effective June 17, 1991 (56 FR 15503); September 8, 1993, effective November 8, 1993 (FR 47216); January 10, 1994, effective March 11, 1994 (59 FR 01275); July 24, 1996, effective September 23, 1996 (61 FR 38392); and May 9, 2000, effective June 8, 2000 (65 FR 26755).

**F. What Changes Are We Proposing To Authorize With Today's Action?**

South Dakota submitted a final complete program revision applications on August 16, 2002 and February 14, 2003, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an final decision, subject to receipt of written comments that oppose this action, that South Dakota's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we propose to grant South Dakota final authorization for the following program changes (the Federal Citation followed by the analog from the Administrative Rules of South Dakota (ARSD 74:28), revised August 28, 2002): *Carbamate Production Identification and Listing of Hazardous Waste* [60 FR 07824, 2/9/95; 60 FR 19165, 4/17/95; and 60 FR 25619, 5/12/95] (Checklist 140)/74:28:22:01; *Conditionally Exempt Small Quantity Generator Disposal Options under Subtitle D* [61 FR 34252, 7/1/96] (Checklist 153)/74:28:22:01; *Land Disposal Restrictions Phase III—Emergency Extention of the K088 Capacity Variance* [62 FR 01992, 1/14/97] (Checklist 155)/74:28:30:01; *Military Munitions Rule* [62 FR 06622, 2/12/97] (Checklist 156)/78:28:21:02, 78:28:22:01, 78:28:23:01, 78:28:24:01, 78:28:25:01, 78:28:26:01, 78:28:27:01, and 78:28:28:01; *Land Disposal Restrictions Phase IV—Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions from RCRA for Certain Processed Materials, and Miscellaneous Hazardous Waste Provisions* [62 FR 25998, 5/12/97] (Checklist 157)/78:28:22:01 and 78:28:30:01; *Testing & Monitoring Activities Amendment III* [62 FR 32452, 6/13/97] (Checklist 158)/78:28:21:02, 78:28:25:01, 78:28:27:01, and 78:28:28:01; *Conformance with the Carbamate Vacatur* [62 FR 32974, 6/17/97] (Checklist 159)/78:28:22:01 and 78:28:30:01; *Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance, Amendment* [62 FR 37694, 7/14/97] (Checklist 160)/78:28:30:01; *Emergency Revision of the Carbamate Land Disposal Restrictions* [62 FR 45568, 8/28/97] (Checklist 161)/78:28:30:01; *Kraft Mill Steam Stripper Condensate Exclusion* [63 FR 18504, 4/15/98] (Checklist 164)/78:28:22:01; *Recycled Used Oil Management Standards—Technical Correction & Clarification* [63 FR 24963, 5/6/98 and 63 FR 37780, 7/14/98] (Checklist 166)/78:28:22:01 and 78:28:27:01; *Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes & Mineral Processing Wastes* [63 FR 28556, 5/26/98] (Checklist 167A)/78:28:30:01; *Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards & Exclusions* [63 FR 28556, 5/26/98] (Checklist 167B)/78:28:30:01; *Land Disposal Restrictions Phase IV—Corrections* [63 FR 28556, 5/26/98 and 63 FR 31266, 6/8/98] (Checklist 167C)/78:28:30:01; *Bevill Exclusion Revisions & Clarifications* [63 FR 28556, 5/26/98] (Checklist 167E)/78:28:22:01; *Exclusion of Recycled Wood Preserving Wastewaters* [63 FR 28556, 5/26/98] (Checklist 167F)/78:28:22:01; *Hazardous Waste Combusters—Revised Standards* [63 FR 6/19/98] (Checklist 168)/78:28:22:01 and 78:28:26:01; *Petroleum Refining Process Wastes* [63 FR 42110, 8/6/98] (Checklist 169)/78:28:22:01, 78:28:27:01, 78:28:30:01; *Land Disposal Restrictions Phase IV—Zinc Micronutrient Fertilizeers, Amendment* [63 FR 46332, 8/31/98] (Checklist 170)/78:28:30:01; *Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production* [63 FR 47410, 09/04/98] (Checklist 171)/78:28:30:01; *Land Disposal Restrictions Phase IV—Extension of Compliance Date for Characteristic Slags* [63 FR 48124, 9/9/98] (Checklist 172)/78:28:30:01; *Land Disposal Restrictions—Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088)—Final Rule* [63 FR 51254, 9/24/98] (Checklist 173)/78:28:30:01; *Post-Closure Permit Requirement & Closure*

*Process* [63FR 56710, 10/22/98] (Checklist 174)/78:28:25:01, 78:28:26:01, and 78:28:28:01; *Universal Waste Rule—Technical Amendments* [63 FR 71225, 12/24/98] (Checklist 176)/78:28:27:01 and 78:28:33:01; *Organic Air Emission Standards—Clarification & Technical Amendments* [64 FR 03382, 1/21/99] (Checklist 177/78:28:23:01, 78:28:25:01, and 78:28:28:01; *Petroleum Refining Process Wastes—Leachate Exemption* [64 FR 06806, 2/11/99] (Checklist 178)/78:28:22:01; *Land Disposal Restrictions Phase IV—Technical Corrections and Clarifications to Treatment Standards* [64 FR 25408, 05/11/99] (Checklist 179)/78:28:22:01, 78:28:23:01, and 78:28:30:01; *Universal Waste Rule: Specific Provisions for Hazardous Waste Lamps* [64 FR 36466, 07/06/99] (Checklist 181)/74:28:21:02, 74:28:22:01, 74:28:25:01, 74:28:26:01, 74:28:28:01, 74:28:30:01, and 74:28:33:01; *Hazardous Air Pollutant Standards for Combustors* [64 FR 52828, 09/30/99 and 64 FR 63209, 11/19/99] (Checklist 182)/74:28:21:01, 74:28:21:02, 74:28:22:01, 74:28:25:01, 74:28:26:01, 74:28:27:01, and 74:28:28:01; *Land Disposal Restrictions Phase IV—Technical Corrections* [64 FR 56469, 10/20/99] (Checklist 183)/74:28:22:01, 74:28:23:01, and 74:28:30:01; *Accumulation Time for Waste Water Treatment Sludges* [65 FR 12378, 03/08/2000] (Checklist 184)/74:28:23:01; *Toxicity Characteristics Revision as of June 30, 2000* [Consolidated Checklist includes 55 FR 11798, 3/29/90 and 55 FR 26986, 6/29/90 (Checklist 74); 55 FR 40834, 10/5/90, 56 FR 03978, 2/1/91, and 56 FR 13406, 4/2/91 (Checklist 80); 56 FR 05910, 2/13/91 (Checklist 84); 57 FR 30657, 7/10/92 (Checklist 108); 57 FR 23062, 6/1/92 (Checklist 117B); 57 FR 55114, 11/24/92 (Checklist 119), as well as, 58 FR 46040, 8/31/93 (Checklist 126 update) and 62 FR 25998, 5/12/97 (Checklist 157 update).

### G. Where Are the Revised State Rules Different From the Federal Rules?

South Dakota did not make any changes that are more stringent or broader-in-scope than the Federal rules in this rulemaking. South Dakota did not change any previously more stringent or broader-in-scope provisions to be equivalent to the Federal rules.

Today's **Federal Register** notice also eliminates errors in portions of the federally authorized South Dakota hazardous waste program. In the process of evaluating South Dakota's application for revisions to its hazardous waste program, we have discovered certain errors in the program as adopted in the State's regulations. These errors arose in part because the State incorporates Federal regulations ''by reference'' as they appear in the ''Code of Federal Regulations'' (CFR), June 2000 edition, published by the National Archives and Records Administration. The specific regulations EPA relies upon to provide official notice to the public and regulated community of any Federal hazardous waste program are those found in the **Federal Registers** that are published each business day, rather than the annual CFR. Errors appearing in regulations used by the State's hazardous waste program may or may not be significant. However, in order to avoid any confusion and to ensure that EPA oversees and enforces the appropriate hazardous waste regulations, we are publishing the following list of corrections for errors found in the revisions of the State's hazardous waste program that are approved in today's **Federal Register**. Additional corrections may appear in **Federal Registers** approving later revisions to the South Dakota hazardous waste program.

- In § 266.100, replace ''(b), (c), (d) and (f)'' with ''(b)–(e), (g) and (h).''
- In § 266.100(d)(3), add the following missing text to the end of the paragraph: ''or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing, must provide a one-time written notice to the Director identifying each hazardous waste burned and specifying whether the owner or operator claims an exemption for each waste under this paragraph or paragraph (d)(1) of this section. The owners or operator must comply with the requirements of paragraph (d)(1) of this section for those wastes claimed to be exempt under that paragraph and must comply with the requirements below for those wastes claimed to be exempt under this paragraph (d)(3).''
- In 40 CFR part 266, appendix VIII, in the ''semivolatiles'' column, replace ''Plychlorinated dibenzo-furans'' with ''Polychlorinate dibenzo-furans.''
- In the 40 CFR 268.40 table: (1) under waste code K088, ''Indeno(1,2,3,-c,d) pyrene'' should be ''Indeno(1,2,3-cd) pyrene'', (2) under waste code K088, ''Bemz(a)anthracene'' should be ''benzo(a)anthracene;
- At 264.1030(c), replace ''40 CFR 124.15'' (applies to EPA only) with ''40 CFR 124.5'' (applies to the State).

### H. Who Handles Permits After the Authorization Takes Effect?

South Dakota will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which were issued prior to the effective date of this authorization until South Dakota has equivalent instruments in place. We will not issue any new permits or new portions of permits for the provisions listed in Item G after the effective date of this authorization. EPA previously suspended issuance of permits for other provisions on the effective date of South Dakota's Final Authorization for the RCRA base program and each of the revisions listed in Item F. EPA will continue to implement and issue permits for HSWA requirements for which South Dakota is not yet authorized.

### I. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in South Dakota?

This program revision does not extend to ''Indian country'' as defined in 18 U.S.C. 1151. Indian country includes:

1. Lands within the exterior boundaries of the following Indian reservations located within the State of South Dakota:
   a. Cheyenne River Indian Reservation;
   b. Crow Creek Indian Reservation;
   c. Flandreau Indian Reservation;
   d. Lower Brule Indian Reservation;
   e. Pine Ridge Indian Reservation;
   f. Rosebud Indian Reservation;
   g. Standing Rock Indian Reservation;
   h. Yankton Indian Reservation;
2. Any land held in trust by the United States for an Indian tribe; and,
3. Any other areas which are ''Indian country'' within the meaning of 18 U.S.C. 1151.

### J. What Is Codification and Is EPA Codifying South Dakota's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart QQ for the codification of South Dakota's updated program until a later date.

### K. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I

certify that this action 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 action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. 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 document 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 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). This action will be effective January 2, 2004.

**List of Subjects in 40 CFR Part 271**

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Incorporation-by-reference, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 21, 2003.

**Kerrigan G. Clough,**

*Acting Regional Administrator, Region VIII.*

[FR Doc. 03–27553 Filed 10–31–03; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 600 and 622**

**[Docket No. 031007250–3250–01; I.D. 091503E]**

**RIN 0648–AO63**

## Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Dolphin and Wahoo Fishery off the Atlantic States

**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 the Fishery Management Plan for the Dolphin and Wahoo Fishery off the Atlantic States (FMP). For the dolphin and wahoo fishery in the exclusive economic zone (EEZ) off the Atlantic states (Maine through the east coast of Florida), this proposed rule would require vessel owners to obtain commercial vessel and charter vessel/headboat permits and submit reports; operators of commercial vessels, charter vessels, and headboats to obtain operator permits; and dealers to obtain permits and submit reports; establish bag and trip limits and a minimum size limit (dolphin only); close the longline fisheries in areas closed to the use of such gear for highly migratory pelagic species; prohibit sale without a commercial vessel permit; specify allowable gear; and establish a framework procedure by which the South Atlantic Fishery Management Council (Council) could establish and modify certain management measures in a timely manner. In addition, the FMP would specify maximum sustainable yield (MSY), optimum yield (OY), the determinants of overfishing (maximum fishing mortality threshold (MFMT)) and overfished (minimum stock size threshold (MSST)), the management unit, the fishing year, and essential fish habitat (EFH) and EFH habitat areas of particular concern (EFH-HAPCs). The intended effects are to conserve and manage dolphin and wahoo and to ensure that no new fisheries for dolphin and wahoo develop.

**DATES:** Comments on this proposed rule must be received no later than 5 p.m., eastern time, on December 18, 2003.

**ADDRESSES:** Copies of the FMP may be obtained from the South Atlantic Fishery Management Council, One

Southpark Circle, Suite 306, Charleston, SC 29407–4699; phone: 843–571–4366; fax: 843–769–4520; e-mail: *safmc@noaa.gov*. The FMP includes a Final Environmental Impact Statement (FEIS), an Initial Regulatory Flexibility Analysis (IRFA), a Regulatory Impact Review, and a Social Impact Assessment/Fishery Impact Statement.

Written comments on this proposed rule must be mailed to Steve Branstetter, Southeast Region, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727–570–5583. Comments will not be accepted if submitted via e-mail or Internet.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to Robert Sadler, Southeast Region, NMFS, at the above address, and by e-mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

**FOR FURTHER INFORMATION CONTACT:** Steve Branstetter, phone: 727–570–5305, fax: 727–570–5583, e-mail: *Steve.Branstetter@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** The Council prepared the FMP under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

## Background

Landings of dolphin and wahoo from Atlantic waters have increased in recent years. Given that the Atlantic dolphin and wahoo fishery is historically a recreational fishery, concern was raised when commercial landings in the Atlantic increased, due in part to an increasing number of longliners that were targeting dolphin or modifying their fishing practices so that dolphin and wahoo constituted a greater portion of their catch. In addition, additional longline effort may be directed to the Atlantic dolphin and wahoo fishery due to closures in the fishery for highly migratory species. The Council is concerned that an increase in landings of dolphin and wahoo could result in localized depletion of stocks and a shift in the historical levels of catch between commercial and recreational fishermen. Accordingly, through the FMP, the Council is adopting a precautionary and risk-averse approach to management that will maintain the current harvest level of dolphin and wahoo and ensure that no new fisheries for these species develop in the EEZ off the Atlantic states (Atlantic EEZ).

## Permits

Information obtained on permit applications and from vessel and dealer reporting would provide baseline data on participants and the activities of vessels and dealers in the Atlantic dolphin and wahoo fishery that currently are not available. Such data are essential to further information collection efforts and the formulation of sound management measures for the fishery.

### *Commercial Vessel Permits*

To be eligible for exemption from the bag and possession limits for dolphin and wahoo in the Atlantic EEZ or to sell dolphin and wahoo harvested in the Atlantic EEZ, this proposed rule would require a vessel to have on board a Federal commercial permit for Atlantic dolphin and wahoo, effective 120 days after the final rule containing the permit requirements is published. As an exception to this permit requirement, a vessel with a Federal commercial permit in a fishery other than the Atlantic dolphin and wahoo fishery would have a 200–lb (91–kg) trip limit, in lieu of a bag and possession limit, and would be allowed to sell dolphin or wahoo, provided that all fishing on and landings from that trip were north of 39° N. lat.

NMFS would issue an Atlantic dolphin and wahoo commercial permit for a vessel that has a Federal commercial permit for king mackerel, South Atlantic snapper-grouper, or Atlantic swordfish or for a vessel whose owner meets both the earned income requirement and the landings requirement. An owner would meet the earned income requirement if he or she derived at least 25 percent of earned income or at least $10,000 from commercial fishing (i.e., the harvest and first sale of fish) or from charter/headboat fishing during one of the 3 calendar years 1996, 1997, or 1998. An owner would meet the landings requirement if he or she owned a vessel that landed and sold at least 250 lb (113 kg) of dolphin and/or wahoo harvested from the Atlantic during one of the 3 calendar years 1996, 1997, or 1998, or during the period January 1, 1999, through May 21, 1999.

If a vessel has a Federal commercial vessel permit issued by the Regional Administrator, Southeast Region, NMFS (RA) in the king mackerel, South Atlantic snapper-grouper, or swordfish fishery, dolphin and wahoo would be added to the fisheries for which the permit is valid upon written request to the RA from the owner or operator for such addition.

An owner of a vessel who desires a commercial vessel permit based on the earned income and landings requirements would be required to obtain a permit application form from, and submit it to, the RA. Information on the application form and accompanying documentation would consist of the standard information and documentation required for commercial vessel permits issued by the RA, as specified at 50 CFR 622.4(b)(3). Such information and documentation would not be required if they are available to the RA through a valid permit issued in another fishery. The landings requirement would have to be documented by a listing of landings by date, species, amount, and dealer. Only qualifying landings verified by reports received or dealer records dated on or before June 21, 1999, by the following would qualify: (1) Fishing vessel logbooks received by the Science and Research Director of either the NMFS' Southeast or Northeast Fisheries Science Centers; (2) state trip ticket systems; or (3) for landings not covered by vessel logbook or state trip ticket system requirements, dealer records accompanied by signed affidavit(s). NMFS believes that restricting verification of landings to these three modes would ensure that documentation is consistent with applicable reporting requirements, and, where no reporting requirements existed, would provide a practical alternative with reasonable verification, i.e., dealer records with signed affidavits. This approach should accommodate qualification consistent with Council intent, while minimizing the potential for fraudulent documentation of landings. Dealer records must definitively show dates and amounts of landings of the species known as dolphin and/or wahoo and the vessel's name, official number, or other reference that clearly identifies the vessel. Dealer records must contain a sworn affidavit by the dealer confirming the accuracy and authenticity of the records. A sworn affidavit is a written statement wherein the individual signing the affidavit affirms that the information presented is accurate and can be substantiated, under penalty of law. Only landings that were harvested, landed, and sold in compliance with state and Federal regulations would be used to establish eligibility.

### *Charter Vessel/Headboat Permits*

To possess a dolphin or wahoo in or from the Atlantic EEZ on board a charter vessel or headboat, this proposed rule would require that a valid Federal charter vessel/headboat permit for

Atlantic dolphin and wahoo be on board that vessel, effective 120 days after the final rule containing the permit requirements is published. There would be no earned income or landing requirements for these charter vessel/headboat permits.

The owner of a vessel who desires a charter vessel/headboat permit for the Atlantic dolphin and wahoo fishery would be required to obtain a permit application form from, and submit it to, the RA.

An owner of a charter vessel or headboat who desires to sell dolphin would be required to obtain a commercial vessel permit for dolphin and wahoo in addition to the charter vessel/headboat permit. (The sale of wahoo harvested in the Atlantic EEZ by a vessel operating as a charter vessel or headboat would not be allowed.)

*Operator Permits*

To enhance enforcement of fishery regulations, this proposed rule would require an operator of a commercial vessel or a charter vessel/headboat in the Atlantic dolphin and wahoo fishery to obtain a permit, effective 180 days after the final rule that contains this measure is published. ''Operator'' is defined as the master or other individual aboard and in charge of a vessel. Each vessel that has a Federal commercial vessel or charter vessel/headboat permit for the Atlantic dolphin and wahoo fishery would be required to have on board at least one person who has a valid operator permit when the vessel is at sea or offloading. In addition to penalties that currently exist for violations of the regulations, an operator permit could be sanctioned. For example, a person whose operator permit is suspended, revoked, or modified pursuant to subpart D of 15 CFR part 904 would not be allowed aboard any vessel subject to Federal fishing regulations in any capacity, if so sanctioned by NOAA, while the vessel is at sea or offloading. To enhance enforceability of this measure, a vessel's owner and operator would be responsible for ensuring that a person with such a suspended, revoked, or modified operator permit is not aboard his/her vessel. A list of persons whose operator permits are revoked, suspended, or modified would be readily available from the RA.

The RA would mail application forms to owners of vessels with permits for the Atlantic dolphin and wahoo fishery and applications also would be available from the RA upon request. Information required on an application would include name, address, and other identifying information, such as date of birth, height, weight, and hair and eye color, of the applicant, and other information necessary for the issuance or administration of the permit. In addition, each applicant would be required to provide two recent (no more than 1–yr old) color, passport-sized photographs. In general, an operator permit would be valid for a 3–year period (i.e., from the operator's birth month in year X through the operator's birth month in year X+3). However, there are two instances in which the period of validity would probably not be 3 years—when an initial permit is issued and when a permit is not renewed immediately upon its expiration (birth month in year X+3). An initial permit or a permit not renewed immediately upon its expiration would expire at the end of the operator's birth month that is between 2 and 3 yr after issuance.

An operator of a vessel in the Atlantic dolphin and wahoo fishery would be required to present his/her operator permit for inspection upon the request of an authorized officer. Because an operator permit is a Federal picture identification card issued without verification of the information on the application, the operator would be required to also present one other form of personal identification that includes a picture. Otherwise, an operator whose permit had been revoked could use an additional operator permit obtained under an assumed name.

*Dealer Permits*

This rule would require a dealer of dolphin or wahoo to obtain a dealer permit for such species, effective 120 days after the final rule that contains this measure is published. ''Dealer'' is defined as a person who first receives dolphin or wahoo by way of purchase, barter, or trade or who first receives dolphin or wahoo harvested from the Atlantic EEZ upon transfer ashore. To obtain such permit, the applicant would have to have a valid state wholesaler's license in the state(s) where the dealer operates, if required by such state(s), and have a physical facility at a fixed location in such state(s). A dealer who desires a dealer permit for the Atlantic dolphin and wahoo fishery would be required to obtain a permit application form from, and submit it to, the RA.

*Effective Dates for Permitting Requirements*

As noted above, commercial vessel, charter vessel/headboat, and dealer permits would be required in the fishery 120 days after the final rule containing these measures is published. Operator permits would be required 180 days after the final rule is published. These time periods are considered adequate for vessel owners, vessel operators, and dealers currently in the fishery to obtain applications, collect necessary data, if required, and complete and submit applications and for the RA to process the applications and issue permits.

*Fees*

As specified at 50 CFR 622.4(f), a fee would be charged for each application for a permit or written request for change in a permit. The applicable fee would be specified on the appropriate form.

**Vessel Identification**

This proposed rule would require that a vessel with a Federal commercial vessel or charter vessel/headboat permit for the Atlantic dolphin and wahoo fishery display and maintain its official number in the manner prescribed at 50 CFR 622.6(a). The requirements at 50 CFR 622.6(a) apply to all vessels that have been issued permits by the RA.

**Recordkeeping and Reporting**

This proposed rule would require owners or operators of vessels (commercial and charter vessel/headboat) and dealers, who have permits for Atlantic dolphin and wahoo and are selected by the Science and Research Director (SRD) of the Northeast or Southeast Fisheries Science Center, to submit reports. Forms and accompanying instructions for such reporting would be available from the SRD.

The Council may also receive from the Atlantic Coastal Cooperative Statistics Program additional information necessary for effective management of the fishery.

**Minimum Size Limits**

Most dolphin are mature by the time they reach a size of 18 inches (45.7 cm), and all are mature by the time they reach 24 inches (61.0 cm). Florida and Georgia have minimum size limits for dolphin within their jurisdictions of 20 inches (50.8 cm), fork length. A corresponding minimum size limit in the EEZ off Florida and Georgia would prevent the targeting of small dolphin, discourage waste by overharvest and discard, and enhance enforceability of Florida's and Georgia's minimum size limits. Accordingly, this proposed rule would establish a minimum size limit for dolphin in or from the EEZ off Georgia and Florida of 20 inches (50.8 cm), fork length.

**Bag and Possession Limits**

*Dolphin*

This proposed rule would establish daily bag and possession limits of dolphin in or from the Atlantic EEZ of 10 per person or 60 per vessel, whichever is less, except, on board a headboat, 10 per paying passenger. These bag and possession limits would reduce the practice of harvesting large quantities or entire schools of small, immature dolphin. Given the rapid growth rate of dolphin, an increase in overall yield of the fishery would be expected by a delay in catch of even a few months.

*Wahoo*

This proposed rule would establish a daily bag and possession limit of wahoo in or from the Atlantic EEZ of 2 per person. The 2–fish bag and possession limit would reduce the potential for excessive harvest of wahoo and promote a conservation ethic in the fishery.

**Commercial Trip Limits**

Commercial trip limits are limits on the amount of fish that can be possessed on board a vessel or landed at any time. The following trip limits would be applicable to a vessel that has a commercial permit for Atlantic dolphin and wahoo and is not operating as a charter vessel or headboat:

Dolphin – 3,000 lb (1,361 kg) north of 31° N. lat. and 1,000 lb (454 kg) south of 31° N. lat.

Wahoo – 500 lb (227 kg).

The trip limit for a fishing vessel, except for a vessel operating as a charter vessel or headboat, that does not have a commercial vessel permit for Atlantic dolphin and wahoo but has a Federal commercial vessel permit in any other fishery would be 200 lb (91 kg) of dolphin and wahoo, combined, provided that all fishing on and landings from that trip were north of 39° N. lat. (A charter vessel/headboat permit is not a commercial vessel permit.) A vessel operating as a charter vessel or headboat must comply with the bag limits.

As is the case with other commercial trip limits, transfer at sea of dolphin or wahoo would not be permitted. In addition, dolphin and wahoo would be allowed to be eviscerated, but would be required to be maintained with head and tail intact. For the purpose of determining compliance with the commercial trip limits, weights would be calculated based upon the legal form in which the fish are possessed or landed, i.e., round, eviscerated, or any combination thereof. The proposed trip limits are intended to cap the commercial fisheries without unduly affecting historical catches.

**Closed Areas**

The principal gear used in the commercial fishery for dolphin and wahoo is pelagic longline, similar to the gear used extensively for Atlantic highly migratory species (HMS) (Atlantic tunas, billfish, sharks, and swordfish). Regulations at 50 CFR Part 635 prohibit the use of pelagic longlines at certain times and areas in the Atlantic EEZ by vessels that have Federal permits for HMS. These time/area closures were implemented because observer data and vessel logbooks indicate that pelagic longline fishing for Atlantic swordfish and tunas results in catch of non-target finfish species such as bluefin tuna, billfish, and undersized swordfish, and of protected species, including threatened and endangered sea turtles. Also, pelagic longline gear incidentally hooks marine mammals and sea birds. The incidental catch of animals that are hooked but not retained due to economic or regulatory factors contributes to overall fishing mortality, which may significantly impair rebuilding of overfished finfish stocks or the recovery of protected species. Continued use of pelagic longline gear for dolphin and wahoo during times and in areas where such gear is not allowed for HMS would subvert the management goals of the time/area closures. Accordingly, this proposed rule would apply the time/area closures applicable to the HMS fishery in the Atlantic EEZ to the fishery for Atlantic dolphin and wahoo. These areas are the Northeastern United States closed area, closed from June 1 through June 30 each year; the Charleston Bump closed area, closed from February 1 through April 30 each year; and the East Florida Coast closed area, closed year round.

**Restrictions on Recreational Sale**

This proposed rule would prohibit the sale of dolphin and wahoo caught in a recreational fishery, except that dolphin caught aboard a charter vessel or headboat that has both charter vessel/headboat and commercial vessel permits could be sold. However, a vessel with both a charter vessel/headboat permit and a commercial permit but operating as a charter vessel or headboat cannot sell dolphin in excess of the bag limit. The Council concluded that dolphin and wahoo are so important to the recreational sector that prohibiting sale of dolphin and wahoo caught by that sector would reduce overexploitation and excessive targeting for sale. In addition, it would eliminate a significant amount of concern that commercial fishermen must adhere to food quality standards and vessel safety requirements that recreational fishermen who sell fish caught under a bag limit can avoid. The exception for dolphin caught under the bag limit on board vessels operating as charter vessels or headboats would recognize an historical practice that has been economically significant for such vessels. These for-hire vessels would only be allowed to sell bag-limit caught fish if they possess both charter vessel/headboat and commercial vessel permits. The requirement of a commercial vessel permit, which has reporting requirements associated with it, would provide for better reporting and documentation of landings and sales of dolphin and wahoo by this segment of the fishery.

**Authorized Gear**

Under this proposed rule, the following would be the only authorized gear types in the fisheries for dolphin and wahoo in the Atlantic EEZ: Automatic reel, bandit gear, handline, pelagic longline, rod and reel, and spearfishing gear (including powerheads). A person aboard a vessel in the Atlantic EEZ that had on board gear types other than authorized gear types would not be allowed to possess a dolphin or wahoo. NMFS would evaluate new gear if and when appropriate.

The proposed authorized gear types include virtually all gear types currently used in the dolphin/wahoo fishery. Specifying allowable gear would discourage introduction of new gear into the fishery. The introduction of new gear could exacerbate the potential for localized depletion, increased bycatch, and problems associated with conflict/competition between gear types.

**Framework Procedure for Management Measures**

This rule proposes a framework procedure by which adjustments could be made in a timely manner to the management measures applicable to the Atlantic dolphin and wahoo fishery. The adjustment procedure is virtually identical to that currently in effect for the management of snapper-grouper, wreckfish, and golden crab in the South Atlantic EEZ and is discussed at length in the FMP. These measures include: Biomass levels, age-structured analyses, MSY, OY, ABC, TAC, trip limits, minimum sizes, gear regulations and restrictions, permit requirements, seasonal or area closures, sub-zones and their management measures, overfishing definitions and other status determination criteria, time frame for

recovery of Atlantic dolphin or wahoo if overfished, fishing year (adjustment not to exceed 2 months), authority for the RA to close a fishery when a quota is reached or is projected to be reached or reopen a fishery when additional quota becomes available, definitions of essential fish habitat, and essential fish habitat HAPCs or Coral HAPCs.

**Additional Measures in the FMP**

In addition to the measures described above, for the management of dolphin and wahoo the FMP would specify the management unit and fishing year, EFH, and EFH-HAPC as follows:

Management unit – The population of dolphin (*Coryphaena equiselis* or *C. hippurus*) and wahoo (*Acanthocybium solandri*) in the Atlantic EEZ and in adjoining state waters.

Fishing year – January 1 through December 31.

EFH – The Gulf Stream, Charleston Gyre, Florida Current, and Pelagic Sargassum.

EFH-HAPC – Off North Carolina: the Point, Ten-Fathom Ledge, and Big Rock; off South Carolina: the Charleston Bump and Georgetown Hole; off Florida: the Point off Jupiter Inlet, the Hump off Islamorada, Marathon Hump, and the Wall off the Keys; and in the Atlantic EEZ: Pelagic Sargassum.

The FMP would also specify MSY, OY, MFMT, MSST. Because data for these values are not discrete for Atlantic dolphin and wahoo, they are based on dolphin and wahoo in the Atlantic, U.S. Caribbean, and Gulf of Mexico and are as follows:

MSY: Dolphin – Between 18.8 and 46.5 million lb (8.5 and 21.1 million kg).

Wahoo – Between 1.41 and 1.63 million lb (.64 and .74 million kg).

OY: Dolphin – Between 14.1 and 34.9 million lb (6.4 and 15.8 million kg).

Wahoo – Between 1.41 and 1.63 million lb (.64 and .74 million kg).

MFMT: Dolphin and wahoo – A fishing mortality rate (F) in excess FMSY(F30%Static SPR).

MSST: Dolphin and wahoo – A ratio of current biomass ($B_{current}$) to biomass at MSY or (1–M) times $B_{MSY}$, where 1–M should never be less than 0.5.

In addition, the FMP would establish an annual cap of 1.5 million lb (.68 million kg) or 13 percent of total landings, whichever is greater, for the commercial fishery for dolphin in the Atlantic EEZ. Should the catch exceed this level, the Council would review data and evaluate the need for additional regulations.

**Availability of the FMP**

Additional background and rationale for management of dolphin and wahoo are contained in the FMP. The availability of the FMP was announced in the **Federal Register** on September 26, 2003 (68 FR 55573). Written comments on the FMP must be received by November 25, 2003. In the preamble to the final rule, NMFS will address all comments received on the FMP or on this proposed rule that are received during their respective comment periods.

**Classification**

At this time, NMFS has not determined that the FMP is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. In making that determination, NMFS 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 E.O. 12866.

NMFS prepared an IRFA, based on the RIR, for this proposed rule. A summary of the IRFA follows.

The Magnuson-Stevens Act provides the statutory basis for the rule. The objectives of the proposed rule are to address local reduction in fish abundance, market disruption, inter-sector conflict and reduced social and economic benefits. The proposed rule would create permit requirements and trip, bag and size limits; specify allowable gear; place restrictions on recreational sales; and establish reporting requirements. In addition, the FMP would establish biological parameters that would not appear in codified text.

No duplicative, overlapping, or conflicting Federal rules have been identified.

Approximately 1,700–3,300 vessels and/or Florida Saltwater Product Licensees (SPLs) were identified with logbook- or trip-ticket reported commercial landings of dolphin and wahoo on the U.S. Atlantic coast during at least one year of the 1996–2002 period. This period of assessment is relevant since it allows identification of permit qualifiers based on fishery participation during the January 1, 1996, through May 21, 1999, period, as well as identification of current participants that would not be expected to qualify for a permit. On average, the annual gross revenue by these entities varied from $4,000 to $123,000. Of these vessels, the larger vessels participate in the Atlantic Highly Migratory Species (HMS) longline fishery and landed approximately ten times as much dolphin and wahoo as the smaller Southeast coastal fisheries vessels and the Florida SPLs. The smaller vessels, however, were relatively more dependent on revenue from the harvest of dolphin and wahoo.

The proposed rule would establish four types of permits to allow continued operation in the dolphin or wahoo fishery: a dealer permit, a commercial vessel permit, a for-hire vessel (charter vessel or headboat) permit, and an operator permit for either commercial or for-hire vessels. A for-hire vessel could possess both a commercial vessel permit and a for-hire vessel permit if qualifying criteria for both permits were met.

Approximately 1,300 vessels are expected to qualify for the commercial vessel dolphin-wahoo permit. This total includes strictly commercial vessels as well as those for-hire vessels that meet the commercial vessel permit requirements. All of these 1,300 vessels have documented Atlantic coast landings of dolphin and wahoo, and most would qualify on the basis of already having Federal permits for commercial fishing in the EEZ for snapper-grouper, king mackerel, or swordfish, as specified in the proposed FMP. An owner may also qualify for a commercial vessel permit if he/she derived at least 25 percent of his/her earned income, or at least $10,000, from commercial or for-hire fishing, during one of the 3 calendar years 1996, 1997, or 1998, and the owner can document that he/she owned a vessel that landed and sold at least 250 lb (113 kg) of dolphin and/or wahoo harvested from the Atlantic during one of the 3 calendar years 1996, 1997, 1998, or during the period January 1, 1999, through May 21, 1999. Among the estimated 1,300 vessels discussed above, there are only a few that are expected to qualify for a commercial permit on the basis of meeting the 250–lb (113–kg) and $10,000 criteria of the proposed rule. The number of vessels that may qualify under the 250–lb (113–kg) and 25–percent earned income from fishing criteria cannot be determined since information on total earned income is unavailable at this time.

As many as 900 additional vessels would qualify for a commercial vessel permit on the basis of having federal permits for commercial fishing in the EEZ for snapper-grouper, king mackerel, or swordfish. However, these vessels do not have documented Atlantic coast landings of dolphin or wahoo, and, therefore, there may be no incentive to obtain a permit, although applications might be submitted for speculative purposes. The number of vessels with snapper-grouper, king mackerel, or swordfish permits has declined over time because each of these three permits is either under a moratorium or limited

access program, and no new vessels can enter the fisheries, except via transfer and purchase of existing permits.

There are 387–1,998 entities with logbook or trip-ticket reported commercial landings of dolphin and wahoo on the U.S. Atlantic coast during at least one year of the 1996–2002 period that are not expected to qualify for a commercial vessel dolphin and wahoo permit as a result of their inability to meet either the harvest or income requirements.

In addition to the commercial entities discussed above, approximately 6,800 for-hire vessels on the U.S. Atlantic coast could obtain a for-hire vessel permit to harvest and possess, but not sell, dolphin and wahoo caught in the U.S. Atlantic EEZ. Average revenues for charter vessels are estimated at $26,000-$69,000, while average revenues for headboats are estimated at $123,000-$300,000.

To obtain a commercial vessel permit, information must be provided to establish qualification, such as information on total earned income and fishing income in 1996, 1997, or 1998, and landings of dolphin and wahoo during the period January 1, 1996, through May 21, 1999. All of the required information is common in the successful operation of a fishing business and should, therefore, already be collected and maintained as standard operating practice by the business. A dealer permit requires possession of a state dealer's license and proof that the applicant has a physical facility at a fixed location in the state where the state license is issued. The dealer, if selected by the Science and Research Director, must additionally report data needed to monitor the dolphin and wahoo fisheries. Qualification for a for-hire permit simply requires an application. The requirements for the various permits and reporting do not require professional skills, and, therefore, may be deemed not to be onerous on the affected participants.

There are two general classes of small business entities that would be directly affected by the proposed rule: commercial fishing vessels and for-hire (charter vessel or headboat) fishing vessels. The Small Business Administration defines a small business that engages in the charter fishing as a firm that is independently owned and operated, is not dominant in its field of operation, and has annual receipts up to $6.0 million per year. The revenue benchmark for a small business that engages in commercial fishing is a firm with receipts up to $3.5 million. Based on the revenue profiles provided above, all commercial and for-hire entities operating in the dolphin and wahoo fisheries are considered small entities. Although the proposed rule will apply to all entities that operate in the dolphin and wahoo fisheries, the proposed rule is expected to adversely impact from 23–60 percent of entities currently operating in the fisheries (the 387–1,998 entities that are not expected to qualify for a permit).

On average, the losses for the 387–1,998 entities that are not expected to qualify for the commercial vessel permit are estimated at 4–32 percent of annual gross revenue. The dollar loss in gross revenue translates into loss in vessel profit, assuming no change in prices, trip costs, and fishing effort. Individually, these non-qualifying entities had annual gross revenues from fishing that ranged from less than $10 to $70,000 or more, and annual landings of dolphin and wahoo that ranged from less that 10 lb (4.5 kg) to 4,000 lb (1814 kg) or more. It is estimated that 58–476 out of the 387–1,998 entities that are not expected to qualify for a permit could be driven out of business, following a 50 percent-loss-in-gross criterion.

The requirements for the dealer, for-hire vessel, and operator permits are not expected to restrict qualification for these permits. Costs of this proposed alternative will be limited to the permit fee, which is not onerous and is not expected to substantially affect business profits.

Thirty-three of 201 vessels in the HMS longline fishery recorded trips in the area where the proposed 3,000–lb (1361–kg) dolphin trip limit would apply with landings in excess of the proposed limit, while 53 of 1,076 vessels in the Southeast coastal fishery recorded trips in the area where the proposed 1,000–lb (454–kg) trip limit would apply with landings in excess of the proposed limit. Among Florida SPLs, 54 of 2,697 SPLs recorded trips exceeding the 1,000–lb (454–kg) trip limit. As a result of the proposed limits, the HMS longline vessels could experience losses in annual gross revenue of approximately $2,100-$3,100, while the vessels in the Southeast coastal fishery and Florida SPLs could experience losses in annual gross revenue of approximately $800-$6,100. The dollar loss in gross revenue translates into a dollar loss in annual profit, assuming no change in prices, costs and fishing effort. The annual gross revenue for the impacted vessels averaged $185,000 per vessel for the HMS longline fishery, and $14,000-$33,000 for the Southeast coastal fishery vessels and Florida SPLs. The projected losses, therefore, equate to 1–2 percent for impacted vessels in the HMS longline fishery and 8–18 percent for impacted Southeast coastal vessels and impacted Florida SPLs.

The proposed alternative for wahoo commercial trip limits is expected to reduce gross revenues by 6–8 percent for 10 vessels. This dollar loss in annual gross revenues, $500-$1,400 per vessel, translates directly into a loss in profits assuming no change in prices, trip costs and fishing effort.

The proposed alternative for allowable gear is expected to reduce fishery profits for an unknown number of vessels by $11,000 a year (total reduction for all such vessels combined). Since available data do not allow the identification of the number of vessels this would impact, it is not possible to determine the average annual revenues of these vessels and, thus, it is not possible to determine the significance of this action with certainty. However, since the total impact is so small, the impact of this measure is not expected to be significant.

The proposed alternative to prohibit the sale of recreationally caught dolphin and wahoo, except for for-hire vessels that possess the necessary state and Federal commercial permits, is not expected to adversely impact gross revenues or profits of small entities. Available data suggest that sales by for-hire vessels are from legally permitted commercial vessels. Further, there is no evidence to indicate that angler demand for for-hire services will decline as a result of recreational sales restrictions.

The proposed alternative to establish a framework procedure is not expected to have any direct impacts on participants or profits since it merely establishes a structure for future action. Additionally, the proposed alternative to establish the fishing year will have no impact on fishing behavior and, therefore, have no impact on business profits.

The impact of the proposed alternatives to establish recreational dolphin and wahoo bag limits, and recreational dolphin minimum size limits on for-hire profits cannot be determined. Although the proposed bag and size limits are expected to restrict the harvest behavior of some recreational anglers, there are insufficient data to establish the impact of these measures on angler demand for for-hire services and, hence, revenues or profits.

The proposed dolphin minimum size limit is expected to reduce ex-vessel revenues of commercial fishing operations that operate off Georgia and Florida by approximately 3 percent. In itself, this is not expected to be

significant. It cannot be determined, however, how this restriction will interact with the proposed trip limits.

The proposed prohibition of surface and pelagic longline gear for dolphin and wahoo during time and area closures in the South Atlantic is not expected to result in any reduction in profits for current participants. It is not expected that any vessels would attempt to operate in this manner since they would have to give up their more valuable Highly Migratory Species permit in order to do so. Available data indicate that vessels cannot profitably operate exclusively for dolphin and wahoo.

Among the 14 separate actions in the proposed rule, 11 are not expected to result in significant economic impacts. Seven of the 11 actions have only two alternatives, the proposed action and status quo, and they have previously been discussed. For the four alternatives with more than two alternatives, the alternatives are as follows:

The rejected alternatives respecting the sale of recreationally-caught fish include (1) unregulated sale (no-action alternative), (2) a 3–5 year phase out of sale by for-hire vessels with necessary commercial permits, and (3) no sale, whereas the preferred alternative would allow sale by for-hire vessels with the necessary commercial permits. The proposed alternative would have less economic impact on small entities than the 3–5 year phase out and no-sale alternatives. Compared with the no-action alternative, the proposed alternative is not expected to have a significant economic impact on for-hire vessels. Available data suggests that sales by for-hire vessels are from legally permitted commercial vessels. Further, there is no evidence to indicate that angler demand for for-hire services will decline as a result of the sales restrictions. NMFS determined that the proposed alternatives would best meet FMP objectives.

To limit the possession and landing of dolphin and wahoo that are recreationally caught in the Atlantic EEZ, bag and/or boat limits are proposed. For dolphin, the rejected alternatives would provide (1) no bag or boat limit (no-action alternative), (2) a boat limit of 18–60 fish, (3) a daily bag limit of 5–10 fish per person, excluding captain and crew on for-hire vessels, or (4) a daily bag limit of 10 fish per person or 60 fish per boat, whichever is less (with the 60 fish boat limit not applying north of 39o North (Delaware Bay, Delaware). The proposed alternative would establish a bag limit of 10 fish per person per day, or 60 fish per vessel, whichever is less, with the vessel limit not applying to headboats. For wahoo, the rejected alternatives would provide (1) no bag limit (no action alternative), or (2) a bag limit of 2 fish per person per day, excluding captain and crew, whereas the proposed alternative would establish a bag limit of 2 fish per person per day.

Respecting the minimum size (fork length) for possession and landing of dolphin that is caught in the Atlantic EEZ, the rejected alternatives would provide (1) no minimum size (no-action alternative), or (2) an 18–24 inch minimum size, whereas the preferred alternative would establish a 20 inch minimum size for Florida and Georgia, and no minimum size limit farther north.

Compared with the respective no-action alternatives, the impact of other alternatives to establish recreational dolphin and wahoo bag limits, and dolphin minimum size limits on for-hire profits cannot be determined. Although the proposed bag and size limits are expected to restrict the harvest behavior of some recreational anglers, there is insufficient data to establish the impact of these measures on angler demand for for-hire services and, hence, revenues or profits. None of these actions is expected to have a significant economic impact on for-hire vessels. While the preferred alternative for minimum size limits for dolphin is expected to reduce ex-vessel revenue in Georgia and Florida for commercial vessels when compared with the no-action option, the economic impact on small entities is not expected to be significant. The proposed action covers just the EEZ off Georgia and Florida, whereas the rejected alternatives would apply to the entire Atlantic EEZ. The rejected alternative would cover a larger area than the proposed action and, therefore would be more restrictive. Further, although an 18- or 19–inch minimum size limit would be less restrictive than the proposed 20–inch minimum size, the rejected alternative would also allow for a minimum size limit that is more restrictive than the proposed action, i.e., limits greater than 20 inches. NMFS determined that the respective proposed alternatives for the bag and size limits would best meet FMP objectives.

The proposed alternatives that specify the requirement for and qualifications of the commercial permit and establish the commercial wahoo trip limit are expected to cause direct negative economic impacts, as described above, but have only status quo measures (no-action alternative) as considered alternatives. Since maintaining the status quo would impose no new restriction, the adverse impacts of the proposed measures would be eliminated/avoided. However, the status quo alternatives would not meet the Council's objectives.

The proposed alternative that establishes the commercial dolphin trip limit is expected to cause direct negative economic impacts, as described above, and has, in addition to a no-action alternative, an alternative that would specify a trip limit of from 1,000 to 5,000 lb (454 to 2,268 kg). Depending upon the amount specified, the 1,000–5,000 lb (454–2,268 kg) trip limit may have more or less negative economic impact than the proposed 1,000/3,000–lb (454/1,361–kg) trip limit, which is expected to result in an annual loss of $96,000. A 1,000–lb (454–kg) trip limit would result in an expected loss of $157,000 per year, while 3,000–lb (1,361–kg) and 5,000–lb (2,268–kg) trip limits will result in losses of $50,000 and $22,000 per year, respectively. Thus, the proposed alternative will result in a lower loss than a 1,000–lb (454–kg) limit, while the 3,000–lb (1,361–kg) limit will reduce the annual loss by $46,000 and the 5,000–lb (2,268–kg) limit will reduce the annual loss by $74,000. NMFS concluded, however, that the more liberal limits would not best achieve the goals of the FMP.

In conclusion, the proposed rule would affect all entities that operate in the dolphin and wahoo fisheries and all such entities are small entities. Further, the proposed rule is expected to adversely impact from 23–60 percent of the small entities currently operating in the commercial dolphin and wahoo fishery. Those entities expected to be adversely impacted by the proposed rule are expected to experience, on average, an estimated 4–32 percent reduction in annual gross revenue. These losses are expected to result in 58–476 vessels potentially being driven out of business, following a 50 percent-loss-in-gross criterion. Additionally, the approximate 1,300 vessels/SPLs that are projected to qualify for the proposed permit are expected to experience losses in profits of 1–18 percent attributable to the proposed dolphin trip limits.

Copies of the IRFA and RIR are available upon request (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and

that have been submitted to OMB for approval. These requirements and the estimated public reporting burden for them are: 20 minutes for a charter vessel/headboat permit application or commercial vessel permit application; 60 minutes for commercial vessel records including a listing of landings; 5 minutes for a request to add the commercial vessel permit or charter vessel permit to a vessel already holding other vessel permits; 5 minutes for a dealer permit application; 60 minutes for an operator permit application; 12 minutes for a vessel catch and effort report; 2 minutes per form to prepare a no-fishing report; and 15 minutes for a dealer monthly report of dolphin and wahoo receipts and prices.

The requirement for a commercial vessel or charter vessel/headboat permit automatically makes the permit holder subject to a requirement that the vessel display its official number. This requirement has also been submitted to OMB for approval. The reporting burden for the display of a vessel's official number is estimated at 45 minutes per response.

The estimates of public reporting burdens for these collections of information include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

NMFS seeks your comments regarding: Whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burdens of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding these or any other aspects of the collections of information to NMFS and OMB (see **ADDRESSES**).

**List of Subjects**

*50 CFR Part 600*

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

*50 CFR Part 622*

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: October 27, 2003.

**Rebecca Lent,**

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

For the reasons set out in the preamble, 50 CFR parts 600 and 622 are proposed to be amended as follows:

## PART 600—MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

**Authority:** 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. In § 600.10, definitions are added in alphabetical order to read as follows:

**§ 600.10 Definitions.**

* * * * *

*Automatic reel* means a reel that remains attached to a vessel when in use from which a line and attached hook(s) are deployed. The line is payed out from and retrieved on the reel electrically or hydraulically.

* * * * *

*Pelagic longline* means a longline that is suspended by floats in the water column and that is not fixed to or in contact with the ocean bottom.

* * * * *

3. In § 600.725, in paragraph (v) table, under heading ''I. New England Fishery Management Council (NEFMC),'' add entry 24; under heading ''II. Mid-Atlantic Fishery Management Council (MAFMC),'' add entry 28; and under heading ''III. South Atlantic Fishery Management Council,'' add entry 24; new entries are added in numerical order to read as follows:

**§ 600.725 General prohibitions.**

* * * * *

(v) * * *

| Fishery | Authorized gear types |
|---|---|
| I. New England Fishery Management Council (NEFMC) | |
| * * * * * | * * |
| 24. Dolphin/wahoo fishery (FMP managed by SAFMC) | Automatic reel, bandit gear, handline, pelagic longline, rod and reel, spear (including powerheads). |
| II. Mid-Atlantic Fishery Management Council (MAFMC) | |
| * * * * * | * * |
| 28. Dolphin/wahoo fishery (FMP managed by SAFMC) | Automatic reel, bandit gear, handline, pelagic longline, rod and reel, spear (including powerheads). |
| III. South Atlantic Fishery Management Council (SAFMC) | |
| * * * * * | * * |
| 24. Dolphin/wahoo fishery (FMP managed by SAFMC) | Automatic reel, bandit gear, handline, pelagic longline, rod and reel, spear (including powerheads). |
| * * * * * | * * |

## PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

4. The authority citation for part 622 continues to read as follows:

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

5. In § 622.1, the first sentence of paragraph (b) is revised and in Table 1, the following entry is added in alphabetical order to read as follows:

**§ 622.1 Purpose and scope.**

* * * * *

(b) This part governs conservation and management of species included in the FMPs in or from the Caribbean, Gulf, Mid-Atlantic, South Atlantic, or Atlantic EEZ, as indicated in Table 1 of this section. * * *

TABLE 1.—FMPS IMPLEMENTED UNDER PART 622

| FMP title | Responsible fishery management council(s) | Geographical area |
|---|---|---|
| * * * * * | * | * |
| FMP for the Dolphin and Wahoo Fishery off the Atlantic States | SAFMC | Atlantic |
| * * * * * | * | * |

6. In § 622.2, in the definition of ''Coastal migratory pelagic fish,'' paragraph (4) and the definition of ''Dealer'' are revised, and definitions of ''Atlantic,'' ''Dolphin,'' ''North Atlantic,'' ''Pelagic longline,'' and ''Whaoo'' are added in alphabetical order to read as follows:

**§ 622.2 Definitions and acronyms.**

* * * * *

*Atlantic* means the North Atlantic, Mid-Atlantic, and South Atlantic.

* * * * *

*Coastal migratory pelagic fish* * * *

(4) Dolphin, *Coryphaena hippurus* (Gulf of Mexico only).

* * * * *

*Dealer* (in addition to the definition specified in § 600.10 of this chapter) means the person who first receives rock shrimp harvested from the EEZ or dolphin or wahoo harvested from the Atlantic EEZ upon transfer ashore.

*Dolphin* means the species *Coryphaena equiselis* or *C. hippurus*, or a part thereof, in the Atlantic. (See the definition of *Coastal migratory pelagic fish* for dolphin in the Gulf of Mexico.)

* * * * *

*North Atlantic* means the Atlantic Ocean off the Atlantic coastal states from the boundary between the United States and Canada to the boundary between the New England Fishery Management Council and the MAFMC, as specified in § 600.105(a) of this chapter.

* * * * *

*Pelagic longline* means a longline that is suspended by floats in the water column and that is not fixed to or in contact with the ocean bottom.

* * * * *

*Wahoo* means the species *Acanthocybium solandri*, or a part thereof, in the Atlantic.

* * * * *

7. In § 622.4, the first sentence of paragraph (a)(4), paragraphs (a)(5), (g)(1), and the last sentence of paragraph (i) are revised, and paragraphs (a)(1)(i)(E), (a)(2)(xii), and (s) are added to read as follows:

**§ 622.4 Permits and fees.**

(a) * * *

(1) * * *

(i) * * *

(E) Atlantic dolphin and wahoo. (See paragraph (a)(5) of this section for the requirements for operator permits in the dolphin and wahoo fishery.)

* * * * *

(2) * * *

(xii) *Atlantic dolphin and wahoo.* (A) For a person aboard a vessel to be eligible for exemption from the bag and possession limits for dolphin or wahoo in or from the Atlantic EEZ or to sell such dolphin or wahoo, a commercial vessel permit for Atlantic dolphin and wahoo must be issued to the vessel and must be on board, except as provided in paragraph (a)(2)(xii)(B) of this section. (See paragraph (a)(5) of this section for the requirements for operator permits in the Atlantic dolphin and wahoo fishery).

(B) The provisions of paragraph (a)(2)(xii)(A) of this section notwithstanding, a fishing vessel, except a vessel operating as a charter vessel or headboat, that does not have a commercial vessel permit for Atlantic dolphin and wahoo but has a Federal commercial vessel permit in any other fishery, is exempt from the bag and possession limits for dolphin and wahoo and may sell dolphin and wahoo, subject to the trip and geographical limits specified in § 622.44(f)(2). (A charter vessel/headboat permit is not a commercial vessel permit.)

* * * * *

(4) *Dealer permits.* For a dealer to receive Gulf reef fish, golden crab harvested from the South Atlantic EEZ, South Atlantic snapper-grouper, rock shrimp harvested from the South Atlantic EEZ, dolphin or wahoo harvested from the Atlantic EEZ, or wreckfish, a dealer permit for Gulf reef fish, golden crab, South Atlantic snapper-grouper, rock shrimp, Atlantic dolphin and wahoo, or wreckfish, respectively, must be issued to the dealer. * * *

(5) *Operator permits.* (i) The following persons are required to have operator permits:

(A) An operator of a vessel that has or is required to have a valid permit for South Atlantic rock shrimp issued under this section.

(B) An operator of a vessel that has or is required to have a charter vessel/headboat or commercial permit for Atlantic dolphin and wahoo issued under this section.

(ii) A person required to have an operator permit under paragraph (a)(5)(i) of this section must carry on board such permit and one other form of personal identification that includes a picture (driver's license, passport, etc.).

(iii) An owner of a vessel that is required to have a permitted operator under paragraph (a)(5)(i) of this section must ensure that at least one person with a valid operator permit is aboard while the vessel is at sea or offloading.

(iv) An owner of a vessel that is required to have a permitted operator under paragraph (a)(5)(i) of this section and the operator of such vessel are responsible for ensuring that a person whose operator permit is suspended, revoked, or modified pursuant to subpart D of 15 CFR part 904 is not aboard that vessel.

* * * * *

(g) *Transfer*—(1) *Vessel permits, licenses, and endorsements and dealer permits.* A vessel permit, license, or endorsement or a dealer permit issued under this section is not transferable or assignable, except as provided in paragraph (m) of this section for a commercial vessel permit for Gulf reef fish, in paragraph (n) of this section for a fish trap endorsement, in paragraph (o) of this section for a Gulf king mackerel gillnet endorsement, in paragraph (p) of this section for a red snapper license, in paragraph (q) of this section for a commercial vessel permit for king mackerel, in paragraph (r) of this section for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, in paragraph (s) of this section for a commercial vessel permit for dolphin and wahoo, in § 622.17(c) for a commercial vessel permit for golden crab, in § 622.18(e) for a commercial vessel permit for South Atlantic snapper-grouper, or in § 622.19(e) for a commercial vessel permit for South

Atlantic rock shrimp. A person who acquires a vessel or dealership who desires to conduct activities for which a permit, license, or endorsement is required must apply for a permit, license, or endorsement in accordance with the provisions of this section. If the acquired vessel or dealership is currently permitted, the application must be accompanied by the original permit and a copy of a signed bill of sale or equivalent acquisition papers.

* * * * *

(i) * * * An operator of a vessel in a fishery in which an operator permit is required must present his/her operator permit and one other form of personal identification that includes a picture (driver's license, passport, etc.) for inspection upon the request of an authorized officer.

* * * * *

(s) *Commercial vessel permits for Atlantic dolphin and wahoo*—(1) *Eligibility.* (i) An owner of a vessel may obtain a commercial vessel permit for Atlantic dolphin and wahoo if his/her vessel has a Federal commercial permit for king mackerel, South Atlantic snapper-grouper, or Atlantic swordfish.

(ii) An owner may also obtain a commercial vessel permit for Atlantic dolphin and wahoo if he/she--

(A) Derived at least 25 percent of his/her earned income, or at least $10,000, from commercial fishing (i.e., harvest and first sale of fish) or from charter vessel/headboat fishing during one of the 3 calendar years 1996, 1997, or 1998; and

(B) Owned a vessel that landed and sold at least 250 lb (113 kg) of dolphin and/or wahoo harvested from the Atlantic during one of the 3 calendar years 1996, 1997, 1998, or during the period January 1, 1999, through May 21, 1999.

(2) *Applications based on permits for king mackerel, South Atlantic snapper-grouper, or Atlantic swordfish.* A vessel owner who desires a commercial vessel permit for Atlantic dolphin and wahoo based on having one of the permits specified in paragraph (s)(1)(i) of this section must submit a request for the addition of Atlantic dolphin and wahoo to his/her permit to the RA.

(3) *Applications based on earned income/landings.* (i) A vessel owner who desires a commercial vessel permit for Atlantic dolphin and wahoo based on the earned income and landings criteria in paragraph (s)(1)(ii) of this section must submit an application for such permit to the RA. Application forms are available from the RA.

(ii) Information requested on the application includes the standard information required in paragraph (b)(3)(ii) of this section and documentation of earned income and landings, as specified in paragraph (s)(1)(ii) of this section. The landings requirement must be documented by a listing of landings by date, species, amount, and dealer. Only qualifying landings verified by reports received or dealer records dated on or before June 21, 1999, by the following would qualify: (1) Fishing vessel logbooks received by the Science and Research Director of either the NMFS' Southeast or Northeast Fisheries Science Centers; (2) state trip ticket systems; or (3) for landings not covered by vessel logbook or state trip ticket system requirements, dealer records accompanied by signed affidavits. Dealer records must definitively show dates and amounts of landings of the species known as dolphin and/or wahoo and the vessel's name, official number, or other reference that clearly identifies the vessel. Dealer records must contain a sworn affidavit by the dealer confirming the accuracy and authenticity of the records. A sworn affidavit is a written statement wherein the individual signing the affidavit affirms that the information presented is accurate and can be substantiated, under penalty of law. Only landings that were harvested, landed, and sold in compliance with state and Federal regulations will be used to establish eligibility.

(4) *Transfer.* An owner of a vessel that has a commercial vessel permit for Atlantic dolphin and wahoo may request that the RA transfer the permit to another vessel owned by the same entity or he/she may request that the RA transfer the permit to a new owner of the vessel when he/she transfers ownership of the vessel. Such request must be accompanied by the existing permit and an application for a permit for the replacement vessel.

8. In § 622.5, paragraphs (a)(1)(vi) and (c)(8) are added, and the first sentence of paragraph (a)(2)(i) and paragraph (b)(1) are revised to read as follows:

**§ 622.5 Recordkeeping and reporting.**

* * * * *

(a) * * *

(1) * * *

(vi) *Atlantic dolphin and wahoo.* The owner or operator of a vessel for which a commercial permit for Atlantic dolphin and wahoo has been issued, as required under § 622.4 (a)(2)(xii), or whose vessel fishes for or lands Atlantic dolphin or wahoo in or from state waters adjoining the Atlantic EEZ, who is selected to report by the SRD must maintain a fishing record on a form available from the SRD and must submit such record as specified in paragraph (a)(2) of this section.

(2) *Reporting deadlines.* (i) Completed fishing records required by paragraphs (a)(1)(i), (ii), (iv), and (vi) of this section must be submitted to the SRD postmarked not later than 7 days after the end of each fishing trip. * * *

* * * * *

(b) *Charter vessel/headboat owners and operators*—(1) *Coastal migratory pelagic fish, reef fish, snapper-grouper, and Atlantic dolphin and wahoo.* The owner or operator of a vessel for which a charter vessel/headboat permit for Gulf coastal migratory pelagic fish, South Atlantic coastal migratory pelagic fish, Gulf reef fish, South Atlantic snapper-grouper, or Atlantic dolphin and wahoo has been issued, as required under § 622.4(a)(1), or whose vessel fishes for or lands such coastal migratory pelagic fish, reef fish, snapper-grouper, or Atlantic dolphin or wahoo in or from state waters adjoining the applicable Gulf, South Atlantic, or Atlantic EEZ, who is selected to report by the SRD must maintain a fishing record for each trip, or a portion of such trips as specified by the SRD, on forms provided by the SRD and must submit such record as specified in paragraph (b)(2) of this section.

* * * * *

(c) * * *

(8) *Atlantic dolphin and wahoo.* (i) A dealer who has been issued a permit for Atlantic dolphin and wahoo, as required under § 622.4(a)(4), and who is selected by the SRD must provide information on receipts of Atlantic dolphin and wahoo and prices paid on forms available from the SRD. The required information must be submitted to the SRD at monthly intervals postmarked not later than 5 days after the end of each month. Reporting frequencies and reporting deadlines may be modified upon notification by the SRD.

(ii) For the purposes of paragraph (c)(8)(i) of this section, in the states from Maine through Virginia, or in the waters off those states, ''SRD'' means the Science and Research Director, Northeast Fisheries Science Center, NMFS, (see Table 1 of § 600.502 of this chapter), or a designee.

(iii) On demand, a dealer who has been issued a dealer permit for Atlantic dolphin and wahoo, as required under § 622.4(a)(4), must make available to an authorized officer all records of offloadings, purchases, or sales of dolphin and wahoo.

* * * * *

9. In § 622.7, paragraph (b) is revised to read as follows:

**§ 622.7 Prohibitions.**

* * * * *

(b) Falsify information on an application for a permit, license, or endorsement or submitted in support of such application, as specified in § 622.4(b), (g), (p), (q), (r), or (s), or in § 622.18, or in § 622.19.

* * * * *

10. In § 622.35, the section heading is revised and paragraph (h) is added to read as follows:

**§ 622.35 Atlantic EEZ seasonal and/or area closures.**

* * * * *

(h) *Dolphin/wahoo closed areas.* (1) If pelagic longline gear is on board a vessel, a person aboard such vessel may not fish for or retain a dolphin or wahoo—

(i) In the Northeastern United States closed area from June 1 through June 30 each year. The Northeastern United States closed area is that portion of the EEZ between 40° N. lat. and 39° N. lat. from 68° W. long. to 74° W. long.

(ii) In the Charleston Bump closed area from February 1 through April 30 each year. The Charleston Bump closed area is that portion of the EEZ off North Carolina, South Carolina, and Georgia between 34° N. lat. and 31° N. lat. and west of 76° W. long.

(iii) In the East Florida Coast closed area year round. The East Florida Coast closed area is that portion of the EEZ off Georgia and the east coast of Florida from the inner boundary of the EEZ at 31° N. lat.; thence due east to 78° W. long.; thence by a rhumb line to 28°17' N. lat., 79°12' W. long.; thence proceeding in a southerly direction along the outer boundary of the EEZ to 24° N. lat.; thence due west to 24° N. lat., 81°47′ W. long.; thence due north to the innermost boundary of the EEZ at 81°47′ W. long.

(2) A vessel is considered to have pelagic longline gear on board when a power-operated longline hauler, a mainline, floats capable of supporting the mainline, and gangions with hooks are on board. Removal of any one of these elements constitutes removal of pelagic longline gear.

(3) If a vessel is in a closed area during a time specified in paragraph (h)(1) of this section with pelagic longline gear on board, it is a rebuttable presumption that fish on board such vessel were taken with pelagic longline gear in the closed area.

11. In § 622.37, paragraph (h) is added to read as follows:

**§ 622.37 Size limits.**

* * * * *

(h) *Dolphin in the Atlantic off Florida and off Georgia*—20 inches (50.8 cm), fork length.

12. In § 622.38, paragraph (a) is revised to read as follows:

**§ 622.38 Landing fish intact.**

* * * * *

(a) The following must be maintained with head and fins intact: Cobia, king mackerel, and Spanish mackerel in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ, except as specified for king mackerel in paragraph (g) of this section; dolphin and wahoo in or from the Atlantic EEZ; South Atlantic snapper-grouper in or from the South Atlantic EEZ, except as specified in paragraph (h) of this section; yellowtail snapper in or from the Caribbean EEZ; and finfish in or from the Gulf EEZ, except as specified in paragraphs (c) and (d) of this section. Such fish may be eviscerated, gilled, and scaled, but must otherwise be maintained in a whole condition.

* * * * *

13. In § 622.39, paragraph (f) is added to read as follows:

**§ 622.39 Bag and possession limits.**

* * * * *

(f) *Atlantic dolphin and wahoo.* Bag and possession limits are as follows:

(1) Dolphin—10, not to exceed 60 per vessel, whichever is less, except, on board a headboat, 10 per paying passenger.

(2) Wahoo—2.

14. In § 622.41, paragraph (c)(1)(v) is revised and paragraph (l) is added to read as follows:

**§ 622.41 Species specific limitations.**

* * * * *

(c) * * *

(1) * * *

(v) Cobia in the Mid-Atlantic and South Atlantic EEZ and little tunny in the South Atlantic EEZ south of 34°37.3′ N. lat.—automatic reel, bandit gear, handline, rod and reel, and pelagic longline.

* * * * *

(l) *Atlantic dolphin and wahoo*—(1) *Authorized gear.* The following are the only authorized gear types in the fisheries for dolphin and wahoo in the Atlantic EEZ: Automatic reel, bandit gear, handline, pelagic longline, rod and reel, and spearfishing gear (including powerheads). A person aboard a vessel in the Atlantic EEZ that has on board gear types other than authorized gear types may not possess a dolphin or wahoo.

(2) *Sea turtle protection measures applicable to pelagic longliners.* The owner or operator of a vessel for which a commercial permit for Atlantic dolphin and wahoo has been issued, as required under § 622.4(a)(2)(xii), and that has on board a pelagic longline must post inside the wheelhouse the sea turtle handling and release guidelines provided by NMFS. Such owner or operator must also comply with the sea turtle bycatch mitigation measures, including gear requirements and sea turtle handling requirements, as specified in § 635.21(c)(5)(i) and (ii) of this chapter, respectively. For the purpose of this paragraph, a vessel is considered to have pelagic longline gear on board when a power-operated longline hauler, a mainline, floats capable of supporting the mainline, and leaders (gangions) with hooks are on board. Removal of any one of these elements constitutes removal of pelagic longline gear.

15. In § 622.44, paragraph (f) is added to read as follows:

**§ 622.44 Commercial trip limits.**

* * * * *

(f) *Atlantic dolphin and wahoo.* (1) The following trip limits apply to a vessel that has a Federal commercial permit for Atlantic dolphin and wahoo, provided that the vessel is not operating as a charter vessel or headboat:

(i) *Dolphin*—(A) In or from the Atlantic EEZ north of 31° N. lat., 3,000 lb (1,361 kg).

(B) In or from the Atlantic EEZ south of 31° N. lat,, 1,000 lb (454 kg).

(ii) *Wahoo.* In or from the Atlantic EEZ, 500 lb (227 kg).

(2) The trip limit for a vessel that does not have a Federal commercial vessel permit for Atlantic dolphin and wahoo but has a Federal commercial vessel permit in any other fishery is 200 lb (91 kg) of dolphin and wahoo, combined, provided that all fishing on and landings from that trip are north of 39° N. lat. (A charter vessel/headboat permit is not a commercial vessel permit.)

16. In § 622.45, paragraph (i) is added to read as follows:

**§ 622.45 Restrictions on sale/purchase.**

* * * * *

(i) *Atlantic dolphin and wahoo.* (1) A person may sell dolphin or wahoo harvested in the Atlantic EEZ only if it is harvested by a vessel that has a commercial permit for Atlantic dolphin and wahoo, as required under § 622.4(a)(2)(xii)(A), or by a vessel authorized a 200–lb (91–kg) trip limit for dolphin or wahoo, as specified in § 622.44(f)(2), and only to a dealer who has a permit for Atlantic dolphin or wahoo, as required under § 622.4(a)(4).

(2) In addition to the provisions of paragraph (i)(1) of this section, a person

may not sell dolphin in excess of the bag limit or any wahoo harvested in the Atlantic EEZ by a vessel while it was operating as a charter vessel or headboat.

(3) Dolphin or wahoo harvested in the Atlantic EEZ may be purchased only by a dealer who has a permit for Atlantic dolphin and wahoo and only from a vessel authorized to sell dolphin or wahoo under paragraph (i)(1) or (i)(2) of this section.

17. In § 622.48, paragraph (m) is added to read as follows:

**§ 622.48 Adjustment of management measures.**

* * * * *

(m) *Atlantic dolphin and wahoo.* Biomass levels, age-structured analyses, MSY, OY, ABC, TAC, trip limits, minimum sizes, gear regulations and restrictions, permit requirements, seasonal or area closures, sub-zones and their management measures, overfishing definitions and other status determination criteria, time frame for recovery of Atlantic dolphin or wahoo if overfished, fishing year (adjustment not to exceed 2 months), authority for the RA to close a fishery when a quota is reached or is projected to be reached or reopen a fishery when additional quota becomes available, definitions of essential fish habitat, and essential fish habitat HAPCs or Coral HAPCs.

[FR Doc. 03–27515 Filed 10–31–03; 8:45 am]

BILLING CODE 3510–22–S

# Notices

Federal Register

Vol. 68, No. 212

Monday, November 3, 2003

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

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on November 19 and 20, 2003, 9 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Pennsylvania Avenue and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

**November 19**

*Public Session*

1. Opening remarks and introductions.

2. Comments or presentations by the public.

3. Field Programmable Gate Arrays overview.

4. Sample industry export compliance training.

**November 19 and 20**

*Closed Session*

5. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to the address listed below:

Ms. Lee Ann Carpenter, Advisory Committees MS: 1099D, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on October 28, 2003, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 sec. 10(d)), that the portion of this meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt form the provisions relating to public meetings found in 5 U.S.C. app. 2 sec. 10(a)(1) and 10(a)(3). For more information, contact Lee Ann Carpenter on 202–482–2583.

Dated: October 29, 2003.

**Lee Ann Carpenter,**

*Committee Liaison Officer.*

[FR Doc. 03–27564 Filed 10–31–03; 8:45 am]

BILLING CODE 3510–JT–M

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

**ACTION:** Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

**Background**

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 (2002) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

*Opportunity to Request a Review*: Not later than the last day of November 2003, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in November for the following periods:

| | Periods |
|---|---|
| **Antidumping Duty Proceedings** | |
| Argentina: Barbed Wire & Barbless Fencing Wire, A–357–405 | 11/1/02–10/31/03 |
| Brazil: Circular Welded Non-Alloy Steel Pipe, A–351–809 | 11/1/02–10/31/03 |
| Hungary: Sulfanilic Acid, A–437–804 | 5/6/02–10/31/03 |
| Kazakhstan: Certain Hot-Rolled Carbon Steel Flat Products, A–834–806 | 11/1/02–10/31/03 |
| Mexico: Circular Welded Non-Alloy Steel Pipe, A–201–805 | 11/1/02–10/31/03 |
| Netherlands: Certain Hot-Rolled Carbon Steel Flat Products, A–421–807 | 11/1/02–10/31/03 |
| Portugal: Sulfanilic Acid, A–471–806 | 5/6/02–10/31/03 |
| Republic of Korea: Circular Welded Non-Alloy Steel Pipe, A–580–809 | 11/1/02–10/31/03 |
| Romania: Certain Hot-Rolled Carbon Steel Flat Products, A–485–806 | 11/1/02–10/31/03 |
| Taiwan: | |
| Certain Hot-Rolled Carbon Steel Flat Products, A–583–835 | 11/1/02–10/31/03 |
| Circular Welded Non-Alloy Steel Pipe, A–583–814 | 11/1/02–10/31/03 |
| Collated Roofing Nails, A–583–826 | 11/1/02–11/18/02 |

| | Periods |
|---|---|
| Thailand: Certain Hot-Rolled Carbon Steel Flat Products, A–549–817 | 11/2/02–10/31/03 |
| The People's Republic of China: | |
| Certain Hot-Rolled Carbon Steel Flat Products, A–570–865 | 11/1/02–10/31/03 |
| Collated Roofing Nails, A–570–850 | 11/1/02–11/18/02 |
| Fresh Garlic, A–570–831 | 11/1/02–10/31/03 |
| Paper Clips, A–570–826 | 11/1/02–10/31/03 |
| Pure Magnesium in Granular Form, A–570–864 | 11/1/02–10/31/03 |
| Ukraine: Certain Hot-Rolled Carbon Steel Flat Products, A–823–811 | 11/1/02–10/31/03 |
| **Countervailing Duty Proccedings** | |
| Hungary: Sulfanilic Acid, C–437–805 | 3/4/02–12/31/02 |
| **Suspension Agreements** | |
| Ukraine: Certain Cut-to-Length Carbon Steel, A–823–808 | 11/1/02–10/31/03 |

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 69 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. See also the Import Administration Web site at *http://www.ia.ita.doc.gov*.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing in accordance with § 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of November 2003. If the Department does not receive, by the last day of November 2003, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: October 29, 2003.

**Holly A. Kuga,**

*Acting Deputy Assistant Secretary, Group II for Import Administration.*

[FR Doc. 03–27599 Filed 10–31–03; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Notice of Initiation

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

**ACTION:** Notice of initiation of five-year (''sunset'') reviews.

**SUMMARY:** In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating five-year (''sunset'') reviews of the antidumping duty orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Reviews* covering these same antidumping duty orders.

**FOR FURTHER INFORMATION CONTACT:** Martha V. Douthit, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–5050, or Mary Messer, Office of Investigations, U.S. International Trade Commission, at (202) 205–3193.

**SUPPLEMENTARY INFORMATION:**

### The Department's Regulation

The Department's procedures for the conduct of sunset reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

### Background

*Initiation of Reviews*

In accordance with 19 CFR 351.218(c) we are initiating sunset reviews of the following antidumping duty orders:

| DOC case No. | ITC case No. | Country | Product |
|---|---|---|---|
| A–570–851 | 731–TA–777 | China | Certain Preserved Mushrooms. |
| A–337–804 | 731–TA–776 | Chile | Certain Preserved Mushrooms. |
| A–533–813 | 731–TA–778 | India | Certain Preserved Mushrooms. |
| A–560–802 | 731–TA–779 | Indonesia | Certain Preserved Mushrooms. |

*Filing Information*

As a courtesy, we are making information related to sunset proceedings, including copies of the *Sunset Regulations* (19 CFR 351.218) and *Sunset Policy Bulletin,* the Department's schedule of sunset reviews, case history information (*i.e.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists, available to the public on the Department's sunset Internet Web site at the following address: *http://ia.ita.doc.gov/sunset/.*

All submissions in these sunset reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303. Also, we suggest that parties check the Department's sunset Web site for any updates to the service lists before filing any submissions. The Department will make additions to and/or deletions from the service lists provided on the sunset Web site based on notifications from parties and participation in these reviews. Specifically, the Department will delete from the service lists all parties that do not submit a substantive response to the notice of initiation.

Because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset reviews. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

*Information Required from Interested Parties*

Domestic interested parties (defined in 19 CFR 351.102) wishing to participate in these sunset reviews must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the antidumping duty orders without further review.

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic interested parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of sunset reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: October 28, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc. 03–27597 Filed 10–31–03; 8:45 am]

BILLING CODE 3510–DS–P

[1] A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation, 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–201–820]**

### Final Results of Analysis of Reference Prices and Clarifications and Corrections; Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes From Mexico

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

**ACTION:** Notice of final results of analysis of reference prices and clarifications and corrections concerning the agreement suspending the antidumping duty investigation on fresh tomatoes from Mexico.

**EFFECTIVE DATE:** November 1, 2003.

**SUMMARY:** The current agreement suspending the antidumping duty investigation on imports of fresh tomatoes from Mexico went into effect on December 16, 2002. The Department of Commerce is publishing this notice to announce the final results of the analysis of the reference prices that it conducted pursuant to section IV.G of the agreement and to clarify and correct certain portions of the agreement.

**FOR FURTHER INFORMATION CONTACT:** Kristin Case or Mark Ross at (202) 482–3174 or (202) 482–4794, respectively; Office of AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

**Results of Analysis of Reference Prices**

On December 4, 2002, the Department of Commerce (the Department) and certain growers/exporters of fresh tomatoes from Mexico signed a new agreement suspending the antidumping duty investigation on imports of fresh tomatoes from Mexico. *See Suspension of Antidumping Investigation: Fresh Tomatoes from Mexico,* 67 FR 77044 (December 16, 2002) (the 2002 Agreement). As a means of preventing price suppression or undercutting with respect to the sale of domestic tomatoes in accordance with section 734(c)(1)(A) of the Tariff Act of 1930, as amended

(the Act), the 2002 Agreement provides for the implementation of reference prices below which the signatory producers/exporters agree not to sell the subject merchandise. As specified in section IV.G of the 2002 Agreement, the Department agreed to conduct an analysis of the reference prices in order to evaluate whether the 2002 Agreement fulfills the requirements of section 734(c)(1)(A) of the Act. Based on our findings, we have determined that it is appropriate to increase the reference price for the winter season (October 23 through June 30) from $0.2108 per pound to $0.2169 per pound. The reference price for the summer season (July 1 through October 22) will remain at $0.172 per pound.

The new reference price for the winter season of $0.2169 per pound is effective November 1, 2003. The new box-weight chart, which reflects a new reference price for the winter season applied to common box types that are shipped from Mexico to the United States, can be viewed at the following URL: *http://www.ia.ita.doc.gov/tomato/new-agreement/documents/boxweightchart.html.*

**Clarifications and Corrections**

After publication of the 2002 Agreement the Department received several requests for clarification and it identified certain ministerial errors in the 2002 Agreement. On May 21, 2003, the Department released proposed clarifications and corrections to interested parties and invited them to comment. The signatories of the 2002 Agreement filed comments on May 30, 2003, proposing several modifications. No other party commented on the proposed clarification and corrections.

After reviewing the comments, the Department has decided to make the following clarifications and corrections to the 2002 Agreement:

1. To correct a ministerial error in the **FOR FURTHER INFORMATION CONTACT** section, the telephone number for Janis Kalnins should be (202) 482–1392.

2. To correct a typographical error, the first sentence of section A.2. of Appendix B should read as follows:

When normal value is based on constructed value, the Department will compute constructed values (CVs) for each growing season based on the sum of each respondent's growing costs for each type of tomato plus amounts for selling, general, and administrative expenses (SG&A).

3. To correct a typographical error, the current URL of the website identified in the second sentence of the third paragraph of Appendix C, the last sentence of the fifth paragraph of Appendix D, the third sentence of the last paragraph of Appendix E, and the third sentence of number four of Appendix F is: *http://ia.ita.doc.gov/tomato/new-agreement/documents/suggested_forms.*

4. To correct a ministerial error, the third sentence of section A.2. of Appendix D should read as follows:

For purposes of this Agreement, a condition defect is any condition defect listed in the chart in part A.5. below.

5. Appendix D, section A.5. should read as follows:

Under this Agreement, adjustments to the sales price of signatory tomatoes will be permitted only for condition defects. The term ''condition defect'' is intended to have the same definition recognized by the Fresh Products Branch of the United States Department of Agriculture, with the exception of abnormal coloring, and, therefore, covers the following items:

*Condition Defects*

Sunken & Discolored Areas
Sunburn
Internal Discoloration
Freezing Injury
Chilling Injury
Gray Mold Rot
Bacterial Soft Rot
Soft/Decay [1]
Bruising
Nailhead Spot
Skin Checks
Decayed and Moldy Stems
Waxy Blister
White Core
Discolored or Dried-out Jelly Around Seeds

6. To ensure consistency with the actual entry documentation currently used by Canadian Customs, the Department will interpret the parenthetical reference to ''Landing Form'' as referring to Form B3 or the Canada Customs Coding Form.

7. To correct a typographical error, the title of Appendix F should read as follows:

Appendix F—Suspension of Antidumping Investigation—Fresh Tomatoes From Mexico—Procedure Signatories Must Follow for Selling Subject Merchandise for Processing.

Dated: October 29, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc. 03–27695 Filed 10–31–03; 8:45 am]

**BILLING CODE 3510–DS–P**

[1] The most common decays listed by the USDA are pleospora rot, phoma rot, alternaria rot, and blossom end rot.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–122–841]**

### Carbon and Certain Alloy Steel Wire Rod From Canada: Initiation of Countervailing Duty Changed Circumstances Review

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

**ACTION:** Notice of initiation of changed circumstances review of the countervailing duty order.

**SUMMARY:** On October 1, 2003, Georgetown Steel Company (formerly GS Industries), Gerdau Ameristeel U.S. Inc. (formerly Co-Steel Raritan), Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc., filed a request for a countervailing duty changed circumstances review. Specifically, they request that the Department of Commerce revoke the countervailing duty order on carbon and certain alloy steel wire rod from Canada. In response, the Department of Commerce is initiating a changed circumstances review of the countervailing duty order on carbon and certain alloy steel wire rod from Canada. Interested parties are invited to comment on this notice of initiation.

**EFFECTIVE DATE:** November 3, 2003.

**FOR FURTHER INFORMATION CONTACT:** S. Anthony Grasso, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3853.

**SUPPLEMENTARY INFORMATION:**

**Background**

On October 22, 2002, the Department of Commerce (the ''Department'') published a countervailing duty order on carbon and certain alloy steel wire rod from Canada. *See Notice of Countervailing Duty Orders: Carbon and Certain Alloy Steel Wire Rod from Brazil and Canada*, 67 FR 64871 (October 22, 2002). On October 1, 2003, the Department received a request from Georgetown Steel Company (formerly GS Industries), Gerdau Ameristeel U.S. Inc. (formerly Co-Steel Raritan), Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc., the petitioners in the original investigation, that the Department initiate a changed circumstances review for purposes of revoking the countervailing duty (''CVD'') order. Also the petitioners request that, upon revocation of the

CVD order, the Department fully refund any countervailing duties deposited pursuant to the order. The petitioners state that they are no longer interested in maintaining the countervailing duty order or in the imposition of CVD duties on the subject merchandise.

**Scope of the Review**

The merchandise covered by this review is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the *Harmonized Tariff Schedule of the United States* (''HTSUS'') definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (*i.e.*, products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. Grade 1080 tire cord quality rod is defined as: (i) Grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

Grade 1080 tire bead quality rod is defined as: (i) Grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

The designation of the products as ''tire cord quality'' or ''tire bead quality'' indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under investigation are currently classifiable under subheadings 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0020, 7227.20.0090, 7227.20.0095, 7227.90.6051, 7227.90.6053, 7227.90.6058, and 7227.90.6059 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

**Initiation of Changed Circumstances Review**

Section 751(d)(1) of the Tariff Act of 1930, as amended (the ''Act''), and 19 CFR 351.222(g) of the Department's regulations, provide that the Department may revoke an antidumping or countervailing duty order, in whole or in part, after conducting a changed circumstances review pursuant to section 751(b) of the Act and concluding from the available information that changed circumstances exist sufficient to warrant revocation or termination. The Department may conclude that changed circumstances sufficient to warrant revocation (in whole or in part) exist when producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the order, in whole or in part. *See* section 782(h)(2) of the Act and § 351.222(g)(1) of the Department's regulations.

The petitioners state that they are producers of carbon and certain alloy steel wire rod but do not identify the percentage of production of the domestic like product they represent. At present, the Department has no information on the record that the other known domestic producers of wire rod have no interest in maintaining the countervailing duty order with respect to the subject merchandise imported from Canada. In particular, the Department does not have information on the record of this changed circumstances review that the petitioners account for substantially all, or at least 85 percent, of the production of the domestic like product. *See Certain Tin Mill Products From Japan: Final Results of Changed Circumstances Review,* 66 FR 52109 (October 12, 2001); *see also,* 19 CFR 351.208(c). Accordingly, we are not combining this initiation with a preliminary determination, pursuant to 19 CFR 351.221(c)(3)(ii). This notice of initiation will accord all interested parties an opportunity to address this proposed revocation.

Pursuant to section 751(b)(1) of the Act, the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party of, a countervailing duty order which shows changed circumstances sufficient to warrant a review of the order. Pursuant to section 751(b)(4) of the Act, the Department finds the petitioners' statement that no further interest exists in continuing the order with respect to carbon and certain alloy steel wire rod from Canada serves as good cause to

review a determination that was made less than 24 months after the date of publication of notice of that determination. Therefore, in accordance with section 751(b)(1) of the Act, we are initiating a changed circumstances review based upon the request made by the petitioners.

If, as a result of this review, we revoke the order, we intend to instruct the U.S. Customs and Border Protection (''CBP'') to liquidate without regard to applicable countervailing duties, and refund any estimated countervailing duties collected on, all unliquidated entries of the merchandise subject to the order, as described above under the ''Scope of the Review'' section, entered, or withdrawn from warehouse, for consumption on or after February 8, 2002, *i.e.*, the publication date of the Department's preliminary determination (*see Preliminary Affirmative Countervailing Duty Determination: Carbon and Certain Alloy Steel Wire Rod from Canada,* 67 FR 5984). We will also instruct CBP to pay interest on such refunds with respect to the subject merchandise entered, or withdrawn from warehouse, for consumption on or after October 22, 2002, in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated countervailing duties on the subject merchandise will continue unless, and until, we publish a final determination to revoke in whole.

**Public Comment**

Interested parties are invited to comment on the initiation of this changed circumstances review. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. All written comments may be submitted by interested parties not later than 14 days after the date of publication of this notice in accordance with 19 CFR 351.303, with the exception that only three (3) copies need be served on the Department, and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 351.303.

The Department will publish in the **Federal Register** a notice of preliminary results of changed circumstances review, in accordance with 19 CFR 351.221(c)(3), which will set forth the factual and legal conclusions upon which our preliminary results are based, and a description of any action proposed based on those results.

This notice is published in accordance with section 751(b)(1) of the Act and sections 351.216 and 351.222 of the Department's regulations.

Dated: October 28, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc. 03–27596 Filed 10–31–03; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 102803D]**

### Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Joint Mid-Atlantic Fishery Management Council (MAFMC) and the Atlantic States Marine Fisheries Commission's (ASMFC) Summer Flounder, Scup, and Black Sea Bass Industry Advisors will hold a public meeting.

**DATES:** The meeting will be held on Thursday, November 20, 2003 from 9 a.m. until 4 p.m.

**ADDRESSES:** The meeting will be held at the Sheraton BWI, 7032 Elm Road, Baltimore, MD; telephone: 410–859–3300.

*Council address*: Mid-Atlantic Fishery Management Council, Room 2115, 300 S. New Street, Dover, DE 19904. ASMFC, 1444 Eye Street, NW, 6th Floor, Washington, DC 20005.

**FOR FURTHER INFORMATION CONTACT:** Daniel T. Furlong, Executive Director, MAFMC, telephone: 302–674–2331, ext. 19.; Vince O'Shea, Executive Director, ASMFC, telephone: 202–289–6400, ext. 304.

**SUPPLEMENTARY INFORMATION:** The purpose of this meeting is to discuss the 2004 recreational management measures for summer flounder, scup, and black sea bass.

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

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Mid-Atlantic Council Office (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: October 28, 2003.

**Richard W. Surdi,**

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

[FR Doc. E3–00151 Filed 10–30–03; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### National Sea Grant Review Panel

**AGENCY:** National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The meeting will have several purposes. Panel members will discuss and provide advice on the National Sea Grant College Program in the areas of program evaluation, strategic planning, education and extension, science and technology programs, and other matters as described below:

**DATES:** The announced meeting is scheduled during two days: Wednesday, November 12, 8:30 a.m. to 6 p.m.; Thursday, November 13, 8:30 a.m. to 3 p.m.

**ADDRESSES:** U.S. Department of Commerce, Herbert C. Hoover Building, 14th & Constitution Avenue, Northwest, Rooms 1414 and 1412, respectively, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Dr. Francis M. Schuler, Designated Federal Official, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 11837, Silver Spring, Maryland 20910, (301) 713–2445.

**SUPPLEMENTARY INFORMATION:** The Panel, which consists of a balanced representation from academia, industry, state government and citizens groups, was established in 1976 by section 209 of the Sea Grant Improvement Act (Public Law 94–461, 33 U.S.C. 1128). The Panel advises the Secretary of Commerce and the Director of the National Sea Grant College Program

with respect to operations under the Act, and such other matters as the Secretary refers to them for review and advice. The agenda for the meeting is as follows:

**Wednesday, November 12, 2003**

1:15 p.m.—5:30 p.m.
1:15 p.m.—Opening Remarks
1:30 p.m.—NOAA Research Review
2:15 p.m.—Executive Committee Report
2:45 p.m.—Break
3 p.m.—State of Sea Grant
3:45 p.m.—Sea Grant Association Report
4:15 p.m.—Panel's Communication Review Committee Update
4:45 p.m.—Sea Grant College Designation Reviews
5:15 p.m.—Sea Grant FY 2004 Budget
5:30 p.m.—Adjourn

**Thursday, November 13, 2003**

8:30 a.m.—3 p.m.
8:30 a.m.—Developing a Panel Strategy Discussion
9:30 a.m.—NOAA Deputy Assistant Secretary of Commerce for Oceans and Atmosphere Update
10 a.m.—NOAA Assistant Administrator for Program Planning & Integration
10:30 a.m.—National Sea Grant Office (NSGO) Communications Plan
11:15 a.m.—Break
12:45 p.m.—Debrief on the Executive Committee Meeting With VADM Lautenbacher
1:15 p.m.—NSGO Updates
2:30 p.m.—Wrap-up
3 p.m.—Adjourn

This meeting will be open to the public.

Dated: October 28, 2003.

**Louisa Koch,**

*Deputy Assistant Administrator, Office of Oceanic and Atmospheric Research.*

[FR Doc. 03–27532 Filed 10–31–03; 8:45 am]

BILLING CODE 3510–KA–P

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Notice of Availability of Government-Owned Invention; Available for Licensing

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice.

**SUMMARY:** The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. Navy Case No. 84,871 entitled ''Scanned-Wavelength Spectroscopic Detector (SWSD) for Rapid Identification and Characterization of Biological Agents''.

**ADDRESSES:** Requests for information about the invention cited should be directed to the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, and must include the Navy Case number.

**FOR FURTHER INFORMATION CONTACT:** Paul Regeon, Acting Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone (202) 767–7230. Due to temporary U.S. Postal Service delays, please fax (202) 404–7920, e-mail: *regeon@nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR part 404.)

Dated: October 28, 2003.

**S.K. Melancon,**

*Paralegal Specialist, Office of the Judge Advocate General, Alternate Federal Register Liaison Officer.*

[FR Doc. 03–27544 Filed 10–31–03; 8:45 am]

BILLING CODE 3810–FF–P

## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.

**SUMMARY:** The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before January 2, 2004.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 29, 2003.

**Angela C. Arrington,**

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

**Office of Postsecondary Education**

*Type of Review:* Reinstatement.
*Title:* Financial Report for the Endowment Challenge Grant Program.
*Frequency:* Annually.
*Affected Public:* Not-for-profit institutions.
*Reporting and Recordkeeping Hour Burden:*
*Responses:* 300.
*Burden Hours:* 900.
*Abstract:* The financial report requires investment data from institutions for the purpose of assessing their progress in increasing their endowment fund resources. The data is also used to monitor compliance with statutory and regulatory provisions.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2314. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov.* Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements

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

[FR Doc. 03–27587 Filed 10–31–03; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### President's Board of Advisors on Historically Black Colleges and Universities

**AGENCY:** President's Board of Advisors on Historically Black Colleges and Universities, Department of Education.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and agenda of the upcoming meeting of the President's Board of Advisors on Historically Black Colleges and Universities. This 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 its opportunity to attend.

*Date:* Wednesday, December 10, 2003.

*Time:* 9 a.m.–3 p.m.

**ADDRESSES:** The Board will meet in Nashville, TN at the Radisson Hotel Opryland, 2401 Music Valley Drive, Phone: 615–231–8804 Fax: 615–889–6328.

**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 Advisors on Historically Black Colleges and Universities (Board) is established under Executive Order 13256, dated February 12, 2002. 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 purposes of the meeting are 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 and plans and reports from the Private Sector Initiative; to consider the Board's annual report to the President on the results of the participation of HBCUs in Federal programs; and to address other 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 ReShone Moore at (202) 502–7893 no later than November 26, 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 December 16, 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 Monday, December 1, 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, U.S. Department of Education, 1990 K Street, NW., Washington, DC 20006, during the hours of 9 a.m. to 5 p.m.

Dated: October 24, 2003.

**Rod Paige,**

*Secretary of Education, U.S. Department of Education.*

[FR Doc. 03–27556 Filed 10–31–03; 8:45 am]

**BILLING CODE 4000–01–M**

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Idaho National Engineering and Environmental Laboratory

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Engineering and Environmental Laboratory (INEEL). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

**DATES:** Tuesday, November 18, 2003; 8 a.m.—6 p.m. Wednesday, November 19, 2003; 8 a.m.—5 p.m.

**ADDRESSES:** Willard Arts Center, 498 A Street, Idaho Falls, ID 83402.

**FOR FURTHER INFORMATION CONTACT:** Ms. Peggy Hinman, INEEL Citizen Advisory Board (CAB) Administrator, North Wind, Inc., P.O. Box 51174, Idaho Falls, ID 83405, Phone (208) 528–8718, or visit the Board's Internet home page at *http://www.ida.net/users/cab.*

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of future use, cleanup levels, waste disposition and cleanup priorities at the INEEL.

*Tentative Agenda:* The tentative objectives for the meeting include:

- To discuss a consensus recommendation addressing the End State Vision for the INEEL
- To receive a presentation about investigations being conducted for the Remedial Investigation and Baseline Risk Assessment for Waste Area Group 7 Pits and Trenches, followed by CAB discussion of reactions and concerns
- To receive a presentation of the status of the Pit 9 Stage II excavation
- To receive a presentation on the $800K Trust Fund established as part of the Settlement Agreement
- To receive a status report addressing the Environmental Management Program, implementation of the Performance Management Plan for Accelerating Cleanup at the INEEL, and compliance with the Idaho Settlement Agreement
- Receive a status report on shipments to the Waste Isolation Pilot plant, followed by CAB discussion of reactions and concerns
- Receive a presentation on the Water Integration Project's Science and

Technology Strategies and Source Term Conceptual Model Summary

• Receive a presentation on the Calendar Year 2002 Annual Site Environmental Report and provide feedback to DOE on how to communicate with the public on this topic

• Review and decide whether to act on proposed amendments to the INEEL CAB's Procedures

• Discuss strategies for conducting new member recruitment efforts

Opportunities for public participation will be held Tuesday, November 18 from 12:15—12:45 and 5:45 to 6 p.m. and on November 19 from 11:45 a.m. to 12 noon and 3:30 to 3:45 p.m. Additional time may be made available for public comment during the presentations.

These times are subject to change as the meeting progresses, depending on the extent of comment offered. Please check with the meeting facilitator to confirm these times.

*Public Participation:* This meeting is open to the public. Written statements may be filed with the Board facilitator either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact the Board Chair at the address or telephone number listed above. Request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer, Jerry Bowman, Assistant Manager for Laboratory Development, Idaho Operations Office, U.S. Department of Energy is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Every individual wishing to make public comment will be provided equal time to present their comments. Additional time may be made available for public comment during the presentations.

*Minutes:* The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday through Friday except Federal holidays. Minutes will also be available by writing to Ms. Peggy Hinman, INEEL CAB Administrator, at the address and phone number listed above.

Issued at Washington, DC, on October 29, 2003.

**Rachel Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 03–27588 Filed 10–31–03; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. MG04–1–000]**

## SCG Pipeline, Inc.; Notice of Filing

October 28, 2003.

On October 8, 2003, SCG Pipeline, Inc. (SCG) filed standards of conduct under part 161 of the Commission's regulations, 18 CFR part 161 (2003).

SCG states that it served copies of the filing on all customers and interested state commissions.

Any person desiring to intervene or to protest said filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www/ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676 or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

*Comment Date:* November 12, 2003.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E3–00155 Filed 10–31–03; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

October 28, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 9340–032.

c. *Date Filed:* October 20, 2003.

d. *Applicants:* FPL Energy Maine Hydro LLC (FPL Energy/Transferor) and Kezar Falls Hydro, LLC (Kezar/Transferee).

e. *Name of Project:* Kezar Falls.

f. *Location:* Located on the Ossippe River, in York and Cumberland Counties, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicants Contacts:* Harris Rosen, Esq., FPL Energy Maine Hydro LLC, c/o FPL Energy, 700 Universe Blvd., Juno Beach, FL 33408, (561) 691–7085 and Chad P. Clark, FPL Energy Maine Hydro LLC, c/o FPL Energy, 160 Capitol Street, Augusta, ME 04330, (207) 623–8414 (Transferor), Wayne Rogers, Kezar Falls Hydro, LLC, c/o Maine Renewables LLC, 191 Main Street, Annapolis, MD 21401, (410) 268–8820 (Transferee).

i. *FERC Contact:* Regina Saizan, (202) 502–8765.

j. *Deadline for filing comments and or motions:* November 12, 2003.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–9340–032) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Transfer:* FPL Energy and Kezar jointly seek Commission approval to transfer the license for the Kezar Falls Project from FPL Energy to Kezar.

The purpose of the transfer is to facilitate the sale of the project from FPL Energy to Kezar, pursuant to an Asset Purchase Agreement between FPL Energy and Maine Renewables, LLC, the parent company of Kezar.

l. *Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E3–00152 Filed 10–31–03; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

October 28, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Minor License Application.

b. *Project No.:* 12063–001.

c. *Date filed:* October 17, 2003.

d. *Applicant:* William Arkoosh.

e. *Name of Project:* Little Wood River Ranch II Hydroelectric Project.

f. *Location*: On the Little Wood River, near the Town of Shoshone, Lincoln County, Idaho. No lands of the United States would be affected.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* William Arkoosh, 2005 Highway 26, Gooding, Idaho 83330, (208) 934–5387.

i. *FERC Contact:* Gaylord W. Hoisington, (202) 502–6032, or e-mail at: *gaylord.hoisington@ferc.gov*.

j. *Cooperating agencies:* We are asking Federal, State, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in item l below.

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. Deadline for filing additional study requests and requests for cooperating agency status: December 16, 2003.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Additional study requests and requests for cooperating agency status may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

m. The application is not ready for environmental analysis at this time.

n. The proposed new construction run-of-river project would consist of: (1) A 10-foot-high, 220-foot-long rock rubble diversion dam; (2) a 2,800-foot-long open feeder canal; (3) a concrete intake structure having two parallel 5-foot-diameter, 250-foot-long steel penstocks; (4) a 60-foot-long, 20-foot-wide, 25-foot-high concrete and steel power house containing two hydraulic Francis turbines with a total installed capacity of 1,500 kilowatts; (5) a 3,500-foot-long tailrace channel; (6) a 10,500-foot-long, 12.5-kilovolt transmission line; (7) an access road and (8) appurtenant facilities.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the Idaho *STATE HISTORIC PRESERVATION OFFICER (SHPO),* as required by (106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

q. Procedural schedule: The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter—November 2003
Issue Acceptance letter—December 2003
Issue Scoping Document for comments—January 2004
Request Additional Information—February 2004
Notice of application is ready for environmental analysis—March 2004
Notice of the availability of the EA—May 2004
Ready for Commission's decision on the application—August 2004

**Note:** This schedule will vary depending upon the circumstances of the project (deficiencies, additional information, etc.) See *Guidance for Publishing Hydro Licensing Schedules.*

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E3–00153 Filed 10–31–03; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

October 28, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 2556–050.

c. *Date Filed:* October 20, 2003.

d. *Applicants:* FPL Energy Maine Hydro LLC (FPL Energy/Transferor) and Messalonskee Stream Hydro, LLC (Messalonskee/Transferee).

e. *Name of Project:* Messalonskee.

f. *Location:* Located on the Messalonskee Stream, a tributary of the Kennebec River, in Kennebec County, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicants Contacts:* Harris Rosen, Esq., FPL Energy Maine Hydro LLC, c/o FPL Energy, 700 Universe Blvd., Juno Beach, FL 33408, (561) 691–7085 and Chad P. Clark, FPL Energy Maine Hydro LLC, c/o FPL Energy, 160 Capitol Street, Augusta, ME 04330, (207) 623–8414 (Transferor), Wayne Rogers, Messalonskee Hydro, LLC, c/o Maine Renewables LLC, 191 Main Street, Annapolis, MD 21401, (410) 268–8820 (Transferee).

i. *FERC Contact:* Regina Saizan, (202) 502–8765.

j. *Deadline for filing comments and or motions:* November 12, 2003.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–2556–050) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Transfer:* FPL Energy and Messalonskee jointly seek Commission approval to transfer the license for the Messalonskee Project from FPL Energy to Messalonskee. The purpose of the transfer is to facilitate the sale of the project from FPL Energy to Messalonskee, pursuant to an Asset Purchase Agreement between FPL Energy and Maine Renewables, LLC, the parent company of Messalonskee.

l. Locations of Application: A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E3–00154 Filed 10–31–03; 8:45 am]

BILLING CODE 6717–01–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7582–1; Docket ID Numbers: OECA–2003–0138 to OECA–2003–0146]**

### Agency Information Collection Activities: Request for Comments on Nine Proposed Information Collection Requests (ICRs)

**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 EPA is planning to submit the following nine existing, approved,

continuing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB) for the purpose of renewing the ICRs. Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collections as described at the beginning of **SUPPLEMENTARY INFORMATION**.

**DATES:** Comments must be submitted on or before January 2, 2004.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand delivery/courier service. Follow the detailed instructions as provided under **SUPPLEMENTARY INFORMATION**, Section I.B.

**FOR FURTHER INFORMATION CONTACT:** The contact individual for each ICR is listed under **SUPPLEMENTARY INFORMATION**, Section II.C.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. How Can I Get Copies of the ICR Supporting Statement and Other Related Information?*

1. *Docket.* EPA has established official public dockets for these ICRs as follows:

(1) NESHAP for Aerospace Manufacturing and Rework Facilities (40 CFR Part 63, Subpart GG), Docket ID Number OECA–2003–0146.

(2) Standards of Performance for Air Emission Standards for Tanks, Surface Impoundments and Containers (40 CFR Part 264, Subpart CC, and 40 CFR Part 265, Subpart CC), Docket ID Number OECA 2003–0142.

(3) NSPS for Stationary Gas Turbines (40 CFR Part 60, Subpart GG), Docket ID Number OECA 2003–0143.

(4) NESHAP for Benzene Emissions from Coke By-Product Recovery Plants (40 CFR Part 61, Subpart L), Docket ID Number OECA 2003–0144;

(5) NSPS for VOC Emissions from Petroleum Refinery Wastewater Systems (40 CFR Part 60, Subpart QQQ, Docket ID Number OECA 2003–0145.

(6) NESHAP for Beryllium (40 CFR Part 61, Subpart C), Docket ID Number OECA–2003–0138.

(7) NESHAP for Primary Aluminum Reduction Plants (40 CFR Part 63, Subpart LL), Docket ID Number OECA–2003–0139.

(8) NESHAP for Epoxy Resin and Non-Nylon Polyamide Production (40 CFR Part 63, Subpart W), Docket ID Number OECA–2003–0140.

(9) NSPS for Sewage Sludge Treatment Plants (40 CFR Part 60, Subpart O), Docket ID Number OECA–2003–0141.

The official public docket for each ICR consists of the documents specifically referenced in the ICR, any public comments received, and other information related to each ICR. 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 for each ICR is the collection of materials that is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center Docket is (202) 566–1514.

2. *Electronic Access.* You may access this document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.* You may use EPA Dockets at *http://www.epa.gov/edocket/* to 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. After entering the system, select ''search,'' then key in the 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 Section I.A.1. EPA intends to work toward 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, or through hand delivery/courier service. 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 late comments in formulating a final decision. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Section I.C. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed 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. 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.'' After entering the system, select ''search,'' and then key in Docket ID Number. 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 *docket.oeca@epa.gov.* Provide the Docket ID Number when submitting your comments. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD–ROM.* You may submit comments on a disk or CD–ROM that you mail to the mailing address identified in Section I.A.1. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to the EPA Docket Center using the address provided in Section I.A.1.; Attention: Docket ID Number (provide number).

3. *By Hand Delivery or Courier Service.* Deliver your comments to address provided in Section I.A.1; Attention: Docket ID Number (provide number). Such deliveries are only accepted during the Docket's normal hours of operation as identified in Section I.A.1.

*C. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. Send or deliver information identified as CBI only to the contact individuals listed in Section II.C.; Attention: Docket ID Number (provide number). You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI. If you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI, and then identify within the disk or CD ROM the specific information that is CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under the section titled **FOR FURTHER INFORMATION CONTACT**.

*D. 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.

*E. In What Information Is EPA Particularly Interested?*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

(2) Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

(3) Enhance the quality, utility, and clarity of the information to be collected.

(4) Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, *e.g.*, permitting electronic submission of responses.

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.

## II. ICRs To Be Renewed

*A. For All ICRs*

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless it displays a currently valid OMB control number. The OMB control numbers for the Agency's information collections are displayed at 40 CFR Part 9.

These information collection requirements are mandatory. The records required by New Source Performance Standards (NSPS) must be retained by the owner or operator for at least two years, the records required by

the National Emission Standards for Hazardous Air Pollutants (NESHAP) must be retained by the owner or operator for at least five years, and the records required by the air emission standards at 40 CFR Part 264, Subpart CC, and 40 CFR Part 265, Subpart CC, must be retained by the owner for three years. In general, the required information consists of emissions data and other information deemed not to be private.

In the absence of such information collection requirements, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved ICRs listed in this notice. Where applicable, the Agency identified specific tasks and made assumptions, while being consistent with the concept of the Paperwork Reduction Act.

*B. List of ICRs To Be Submitted*

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following nine existing, approved, continuing ICRs to the Office of Management and Budget (OMB):

(1) NESHAP for Aerospace Manufacturing and Rework Facilities (40 CFR Part 63, Subpart GG); Docket ID Number OECA–2003–0146; EPA Preliminary ICR Number 1687.06; OMB Control Number 2060–0314; expiration date May 31, 2004.

(2) Standards of Performance for Air Emission Standards for Tanks, Surface Impoundments and Containers (40 CFR Part 264, Subpart CC, and 40 CFR Part 265, Subpart CC); Docket ID Number OECA 2003–0142; EPA Preliminary ICR Number 1593.06; OMB Control Number 2060–0318; expiration date July 31, 2004.

(3) NSPS Standard of Performance for Stationary Gas Turbines (40 CFR Part 60, Subpart GG); Docket ID Number OECA 2003–0143; EPA Preliminary ICR Number 1071.08; OMB Control Number 2060–0028; expiration date July 31, 2004.

(4) NESHAP for Benzene Emissions from Coke By-Product Recovery Plants (40 CFR Part 61, Subpart L); Docket ID Number OECA 2003–0144; EPA Preliminary ICR Number 1080.11; OMB Control Number 2060–0185; expiration date August 31, 2004.

(5) NSPS for VOC Emissions from Petroleum Refinery Wastewater Systems (40 CFR Part 60, Subpart QQQ); Docket ID Number OECA 2003–0145; EPA Preliminary ICR Number 1136.07; OMB Control Number 2060–0172; expiration date September 30, 2004.

(6) NESHAP for Beryllium (40 CFR Part 61, Subpart C), Docket ID Number OECA–2003–0138; EPA Preliminary ICR Number 0193.08; OMB Control Number 2060–0092; expiration date September 30, 2004.

(7) NESHAP for Primary Aluminum Reduction Plants (40 CFR Part 63, Subpart LL), Docket ID Number OECA–2003–0139; EPA Preliminary ICR Number 1767.04; OMB Control Number 2060–0360; expiration date September 30, 2004.

(8) NESHAP for Epoxy Resin and Non-Nylon Polyamide Production (40 CFR Part 63, Subpart W), Docket ID Number OECA 2003–0140; EPA Preliminary ICR Number 1681.05; OMB Control Number 2060–0290; expiration date September 30, 2004.

(9) NSPS for Sewage Sludge Treatment Plants (40 CFR Part 60, Subpart O), Docket ID Number OECA–2003–0141; EPA Preliminary ICR Number 1063.09; OMB Control Number 2060–0035; expiration date September 30, 2004.

*C. Contact Individuals for ICRs*

(1) NESHAP for Aerospace Manufacturing and Rework Facilities (40 CFR Part 63, Subpart GG); Leonard Lazarus of the Office of Compliance at (202) 564–6369 or via E-mail at *lazarus.leonard@epa.gov*; EPA ICR Number 1687.06; OMB Control Number 2060–0314; expiration date May 31, 2004.

(2) Standards of Performance for Air Emission Standards for Tanks, Surface Impoundments and Containers (40 CFR Part 264, Subpart CC, and 40 CFR Part 265, Subpart CC); Dan Chadwick of the Office of Compliance at (202) 564–7054, or via E-mail at *chadwick.dan@epa.gov*; EPA Preliminary ICR Number 1593.06; OMB Control Number 2060–0318; expiration date July 31, 2004.

(3) NSPS for Stationary Gas Turbines (40 CFR Part 60, Subpart GG); Rafael Sanchez of the Office of Compliance at (202) 564–7028, or via E-mail at *sanchez.rafael@epa.gov*; EPA Preliminary ICR Number 1071.08; OMB Control Number 2060–0028; expiration date July 31, 2004.

(4) NESHAP for Benzene Emissions from Coke By-Product Recovery Plants (40 CFR Part 61, Subpart L); Rafael Sanchez of the Office of Compliance at (202) 564–7028, or via E-mail at *sanchez.rafael@epa.gov*; EPA Preliminary ICR Number 1080.11; OMB Control Number 2060–0185; expiration date August 31, 2004.

(5) NSPS for VOC Emissions from Petroleum Refinery Wastewater Systems (40 CFR Part 60, Subpart QQQ); Dan Chadwick of the Office of Compliance at (202) 564–7054, or via E-mail at *chadwick.dan@epa.gov*; EPA Preliminary ICR Number 1136.07; OMB Control Number 2060–0172; expiration date September 30, 2004.

(6) NESHAP for Beryllium (40 CFR Part 61, Subpart C); Learia Williams of the Office of Compliance at (202) 564–4113 or via E-mail at *williams.learia@epa.gov*; EPA ICR Number 0193.08; OMB Control Number 2060–0092; expiration date September 30, 2004.

(7) NESHAP for Primary Aluminum Reduction Plants (40 CFR Part 63, Subpart LL); Learia Williams of the Office of Compliance at (202) 564–4113 or via E-mail at *williams.learia@epa.gov*; EPA ICR Number 1767.04; OMB Control Number 2060–0360; expiration date September 30, 2004.

(8) NESHAP for Epoxy Resin and Non-Nylon Polyamide Production (40 CFR Part 63, Subpart W); Learia Williams of the Office of Compliance at (202) 564–4113 or via E-mail at *williams.learia@epa.gov*; EPA ICR Number 1681.05; OMB Control Number 2060–0290; expiration date September 30, 2004.

(9) NSPS for Sewage Sludge Treatment Plants (40 CFR Part 60, Subpart O); Learia Williams of the Office of Compliance at (202) 564–4113 or via E-mail at *williams.learia@epa.gov*; EPA ICR Number 1063.09; OMB Control Number 2060–0035; expiration date September 30, 2004.

*D. Information for Individual ICRs*

(1) NESHAP for Aerospace Manufacturing and Rework Facilities (40 CFR Part 63, Subpart GG), EPA Preliminary ICR Number 1687.06, OMB Control Number 2060–0314, expiration date May 31, 2004.

Affected Entities: Entities potentially affected by this action are owners and operators of aerospace manufacturing or rework facilities.

Abstract: The respondents are owners or operators of aerospace manufacturing and rework facilities. Operations covered include: Cleaning, primer and top coat application, depainting, chemical milling maskant application, handling and storage of waste. 40 CFR Part 63 Subpart GG, was promulgated on September 1, 1996.

Affected facilities must comply with the recordkeeping and reporting requirements at 40 CFR Part 63, General Provisions, including: Initial notifications; performance tests; and startup, shutdown, and malfunction

reports. In addition, semiannual reports are required for cleaning operations, primer and topcoat application operations, depainting operations, and chemical milling maskant application operations primarily involve periods of noncompliance. Annual reports are also required for primer and topcoat application operations and depainting operations, and for operations occurring outside the specified limits.

*Burden Statement:* In the previously approved ICR, the estimated number of respondents for this information collection was 2,869 with 16,402 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 3,737,400 hours. On the average, each respondent reported six times per year and 228 hours were spent preparing each response. Total estimated annual reporting and recordkeeping cost burden was $561,000 of which the annualized capital/startup costs were $240,000, and the operation and maintenance costs were $321,000.

(2) Standards of Performance for Air Emission Standards for Tanks, Surface Impoundments and Containers (40 CFR Part 264, Subpart CC, and 40 CFR Part 265, Subpart CC); EPA Preliminary ICR Number 1593.06; OMB Control Number 2060–0318; expiration date July 31, 2004.

*Affected Entities:* Entities potentially affected by this action are owners and operators of facilities that treat, store or dispose of hazardous waste in tanks, surface impoundments and containers.

*Abstract:* The Air Emission Standards for Tanks, Surface Impoundments and Containers at 40 CFR Part 264, Subpart CC and 40 CFR Part 265, Subpart CC were proposed on July 22, 1991 (56 FR 33491), and promulgated on December 6, 1994 (59 FR 62896). Amendments to this Subpart were added on November 25, 1996 (61 FR 59931).

Records must be kept of tank, surface impoundment and container inspections and an annual report is required. The information collection is needed by the Agency to determine: (a) Whether a hazardous waste contains sufficiently low concentrations of volatile organics to allow the waste to be managed in a tank, surface impoundment, or container without the use of emission controls, and (b) for units requiring emission controls, whether the controls are being properly operated and maintained.

The data collected by the affected facility is retained at the facility for a minimum of three years.

*Burden Statement:* In the previously approved ICR, the estimated number of respondents for this information collection was 6,318 with 6,318 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 672,640 hours. Each respondent reported once per year and 106 hours were spent preparing each response. The annual reporting and recordkeeping cost burden was $1,460,000 for capital/startup expenses. There were no annual operation and maintenance expenses.

(3) NSPS Standard of Performance for Stationary Gas Turbines (40 CFR Part 60, Subpart GG); EPA Preliminary ICR Number 1071.08; OMB Control Number 2060–0028; expiration date July 31, 2004.

*Affected Entities:* Entities potentially affected by this action are owners and operators of stationary gas turbines with heat input at peak load equal or greater than 10.7 gigajoules per hour.

*Abstract:* The NSPS for Stationary Gas Turbines (40 CFR Part 60, Subpart GG) was promulgated on September 10, 1979. These standards require initial notification, performance tests, and periodic reports. In addition, owners or operators are required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Owners and operators of stationary gas turbines subject to the standard must submit a one-time-only notification of construction/reconstruction, anticipated and actual startup date, initial performance test date, physical or operational changes, and demonstration of a continuous monitoring system. Owners and operators also must provide a report on initial performance test results, monitoring results and excess emissions. Records must be maintained of startups, shutdowns, malfunctions, periods when the continuous monitoring system is inoperative, sulfur and nitrogen content of the fuel, fuel-to-water ratio, and rate of fuel consumption.

*Burden Statement:* In the previously approved ICR, the estimated number of respondents for this information collection was 775 with 1,650 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 93,439 hours. On the average, each respondent reported two times per year and 57 hours were spent preparing each response. The responses were prepared semiannually. There were no capital/startup costs or operation and maintenance costs associated with continuous emission monitoring in the previous ICR.

(4) NESHAP for Benzene Emissions from Coke By-Product Recovery Plants (40 CFR Part 61, Subpart L); EPA Preliminary ICR Number 1080.11; OMB Control Number 2060–0185; expiration date August 31, 2004.

*Affected Entities:* Entities potentially affected by this action are owners or operators of coke by-product recovery plants.

*Abstract:* The NESHAP Standard for Benzene Emissions from Coke By-Product Recovery Plants (40 CFR Part 61, Subpart L) was promulgated September 14, 1989, and revised on September 19, 1991, to allow the use of carbon absorbers and vapor incinerators as alternative means of complying with the standards for process vessels, storage tanks and tar-intercepting sumps. The use of carbon absorbers and vapor incinerators instead of gas blanketing, the control technology on which the original standards were based, is now optional.

The General Provisions at 40 CFR Part 61 are applicable to storage vessels and include notification of construction or reconstruction, initial source report, notification of physical/operational changes, and notification of the anticipated and actual startup dates. The initial source report is the only report that was required from existing sources. Owners or operators of vessels equipped with the specified controls are required to submit, along with the notifications required by the General Provisions, a report that describes the control equipment used to comply with the standard. Owners or operators of the affected facilities described must also make the following one-time-only reports: Notification of construction or modification; notification of the anticipated and actual dates of startup; initial compliance reports; notification of emission tests; report following an emission test; and notification of a monitoring system performance test. In addition, sources are required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports and records are required, in general, of all sources subject to any NESHAP.

Reporting requirements specific to benzene coke by-product recovery plants include a semiannual report by affected facilities. The semiannual reports include results of leak monitoring and performance tests. Respondents also are required to submit semiannual reports of measurements for sources subject to a no detectable emissions limit and semiannual reports

summarizing the results of the leak detection and repair programs implemented at the plant. One report would incorporate information for both process equipment and fugitive sources.

Recordkeeping and reporting requirements specific to benzene coke by-product recovery plants for leak detection and repair of fugitive emission sources are those provisions specified under 40 CFR 61, Subpart V. The collections under Subpart V for equipment leaks were approved by OMB under the ICR at OMB Control Number 2060–0068. The only difference in the equipment leak requirements of Subpart V and this standard relates to the exhausters. Exhausters are subject to quarterly monitoring requirements. However, quarterly monitoring is not required if the exhauster is equipped with a seal system that has a barrier fluid, the exhauster seal is loaded and vented to a control device, or a leakless exhauster is used. Exhausters are subject to the same recordkeeping and reporting provisions as other equipment subject to Subpart V.

*Burden Statement:* In the previously approved ICR, the estimated number of respondents for this information collection was 40 with 76 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 7,083 hours. On the average, each respondent reported two times per year and 93 hours were spent preparing each response. There were no capital/startup costs or operation and maintenance costs associated with the previous ICR. It should be noted that the burden associated with the standard at 40 CFR Part 61, Subpart Y, will not be included in the forthcoming ICR, but has been consolidated with ICR 1854, OMB Control Number 2060–0443. This will reduce the overall burden for this ICR.

(4) NSPS for VOC Emissions from Petroleum Refinery Wastewater Systems (40 CFR Part 60, Subpart QQQ); EPA Preliminary ICR Number 1136.07; OMB Control Number 2060–0172; expiration date September 30, 2004.

*Affected Entities:* Entities potentially affected by this action are owners or operators of petroleum refinery wastewater systems.

*Abstract:* The NSPS for VOC Emissions From Petroleum Refinery Wastewater Systems (40 CFR Part 60, Subpart QQQ) were proposed on May 4, 1987, and promulgated on November 23, 1988. These standards apply to refinery wastewater systems: individual drain systems, oil-water separators, and aggregate facilities commencing construction, modification or reconstruction after the date of proposal.

Owners or operators of the affected facilities must make initial notification and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. The notifications, reports and records are required, in general, of all sources subject to NSPS standards.

*Burden Statement:* In the previously approved ICR, the estimated number of respondents for this information collection was 160 with 320 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 36,866 hours. On the average, each respondent reported two times per year and 115 hours were spent preparing each response. The responses were prepared semiannually. The annual reporting and recordkeeping cost burden was $57,000, of which the capital/startup costs were $1,000 and the operation and maintenance costs were $56,000.

(6) NESHAP for Beryllium (40 CFR Part 61, Subpart C); EPA Preliminary ICR Number 0193.08; OMB Control Number 2060–0092; expiration date September 30, 2004.

*Affected Entities:* Entities potentially affected by this action are extraction plants, ceramic plants, foundries, incinerators, and propellant plants which process beryllium ore, beryllium, beryllium oxide, beryllium alloys, or beryllium-containing waste, also machine shops which process beryllium, beryllium oxides, or any alloy when such alloy contains more than five percent beryllium by weight.

*Abstract:* The NESHAP for Beryllium was proposed on December 7, 1971 (36 FR 23939) and promulgated on April 6, 1973 (38 FR 8826). The monitoring, recordkeeping, and reporting requirements outlined in the standard are similar to those required for other NESHAP standards.

Owners or operators of the affected facilities are required to submit one-time-only notifications including: notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate, notification of the initial performance test, including information necessary to determine the conditions of the performance test, and performance test measurements and results.

Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all sources subject to NESHAP.

Specifically, most facilities subject to 40 CFR Part 61, Subpart C will meet the standard by means of a one-time-only initial stack test. However, those existing facilities that have elected to comply with an alternative ambient air quality limit are required to operate a continuous monitor in the vicinity of the affected facility. For those complying by ambient monitoring, a monthly report of all measured concentrations shall be submitted to the Administrator. All sources subject to this standard are required to submit monthly reports and on-occasion.

*Burden Statement:* In the most previously approved ICR, the estimated number of respondents for this information collection was 33 with 166 responses per year, and the annual industry reporting and recordkeeping burden for this collection of information was 2,232 hours. On the average, each respondent reported five times per year and spent 13.4 hours preparing each response.

The total annualized cost over its expected useful life is approximately $35,000, which is comprised of zero capital/startup costs and operation and maintenance costs of approximately $35,000. It is estimated that no additional sources are expected to become subject to the standard over the next three years.

(7) NESHAP for Primary Aluminum Reduction Plants (40 CFR Part 63, Subpart LL); EPA Preliminary ICR Number 1767.04; OMB Control Number 2060–0360; expiration date September 30, 2004.

*Affected Entities:* Entities potentially affected by this action are new or existing potlines, paste production plants, or anode bake furnaces associated with primary aluminum production and located at a major source, and for each new pitch storage tank associated with a primary aluminum reduction plant.

*Abstract:* The NESHAP for Primary Aluminum Reduction Plants (40 CFR Part 63, Subpart LL), was proposed on September 26, 1996, and promulgated on October 7, 1997.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports according to the general provisions specified in 40 CFR Part 63, Subpart A. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is

inoperative. Section 63.850 of the final standard includes these provisions, except that the existing performance specifications for continuous emission monitors (CEMs) are not applicable to hydrogen fluoride CEMs because such specifications have not yet been developed for that device. In addition, all sources are required to submit quarterly and semiannual reports.

*Burden Statement:* In the most previously approved ICR, the estimated number of respondents for the information collection was 23 with 50 responses per year, and the annual industry reporting and recordkeeping burden for this collection of information was 121,277 hours. On the average, each respondent reported two times per year and spent 2,416 hours preparing each response.

The total annualized cost over its expected useful life is approximately $117,000, which is comprised of zero capital/startup costs and operation and maintenance costs of approximately $117,000. It is estimated that no new sources per year will become subject to the standard, but one existing source per year will add a new affected facility.

(8) NESHAP for Epoxy Resin and Non-Nylon Polyamide Production (40 CFR Part 63, Subpart W); EPA Preliminary ICR Number 1681.05; OMB Control Number 2060–0290; expiration date September 30, 2004.

*Affected Entities:* Entities potentially affected by this action are all existing, new, and reconstructed manufacturers of basic liquid epoxy resins and epichlorohydrin-modified non-nylon polyamide resins, also known as wet strength resins.

*Abstract:* The NESHAP for Epoxy Resin and Non-Nylon Polyamide Production (40 CFR Part 63, Subpart W), was promulgated on March 8, 1995, and amended on May 8, 2000.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports, and owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

*Burden Statement:* In the most previously approved ICR, the estimated number of respondents for this information collection was 13 with 29 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 4,525 hours. On the average, each respondent reported two times per year and spent 156 hours preparing each response.

The total annualized cost over its expected useful life is approximately $9,000, which is comprised of zero capital/startup costs and operation and maintenance costs of approximately $9,000. It is estimated that no additional sources will become subject to the standard over the next three years.

(9) NSPS for Sewage Sludge Treatment Plants (40 CFR Part 60, Subpart O); EPA Preliminary ICR Number 1063.09; OMB Control Number 2060–0035; expiration date September 30, 2004.

*Affected Entities:* Entities potentially affected by this action are each incinerator that combusts wastes containing more than 10 percent sewage sludge (dry basis) produced by municipal sewage treatment plants, or each incinerator which charges more than 1000 kg (2205 lb.) per day municipal sewage sludge (dry basis).

*Abstract:* The NSPS for Sewage Treatment Plants (40 CFR Part 60, Subpart O) were promulgated on February 28, 1974, and amended October 6, 1975, November 10, 1977, October 6, 1988, and October 17, 2000. The monitoring, recordkeeping, and reporting requirements outlined in the standards are mandatory for compliance with 40 CFR Part 60, NSPS for sewage sludge treatment plant incinerators.

The control of emissions of particulate matter from sewage treatment plant incinerators requires not only the installation of properly designed equipment, but also the operation and maintenance of that equipment.

These standards require initial notification reports with respect to construction, modification, reconstruction, startups, shutdowns, and malfunctions. The standards also require reports on initial performance tests and semiannual reports of excess emissions are also required.

*Burden Statement:* In the most previously approved ICR, the estimated number of respondents for this information collection was 154 with 294 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 9,089 hours. On the average, each respondent reported two times per year and spent 31 hours preparing each response.

The total annualized cost over its expected useful life are approximately $5,845,000. The total annualized capital/startup cost is $700,000, and the annualized operation and maintenance costs are approximately $5,145,000.

Dated: October 20, 2003.

**Michael M. Stahl,**

*Director, Office of Compliance.*

[FR Doc. 03–27555 Filed 10–31–03; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[AMS–FRL–7582–4]**

## California State Motor Vehicle Pollution Control Standards; Request for Waiver of Federal Preemption; Opportunity for Public Hearing

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

**ACTION:** Notice of opportunity for public hearing and comment.

**SUMMARY:** The California Air Resources Board (CARB) has notified the EPA that it has promulgated regulations controlling emissions from off-cycle aggressive driving and air-conditioning usage for motor vehicles under 8,501 pounds gross vehicle weight rating with a phase-in of the requirements commencing in the 2001 model year. By letter dated January 29, 1999, CARB requests that the EPA provide California with a waiver of Federal preemption under section 209(b) of the Clean Air Act, 42 U.S.C. 7543(b), for these new test procedures and standards. Specifically, CARB's regulations adopt the two supplemental federal test procedures (SFTP)— the US06, high-speed, high-acceleration test; and the SC03 air conditioner test, and associated certification standards. This notice announces that EPA has tentatively scheduled a public hearing concerning California's request and that EPA is accepting comments on CARB's request.

**DATES:** EPA has tentatively scheduled a public hearing for December 3, 2003, beginning at 10 a.m. EPA will hold a hearing only if a party notifies EPA by November 24, 2003, expressing its interest in presenting oral testimony regarding CARB's waiver request. By November 28, 2003, any person who plans to attend the hearing should call David Dickinson of the EPA's Certification and Compliance Division at (202) 564–9256, to learn if we will hold a hearing. Any party may submit written comments by December 3, 2003.

**ADDRESSES:** Comments may be submitted electronically, by mail, by facsimile, or through hand delivery/courier. Follow the detailed instructions as provided in section ''B'' of the **SUPPLEMENTARY INFORMATION** section. EPA will make available for public inspection at the Air and Radiation

Docket at EPA's Docket Center written comments received from interested parties, in addition to any testimony given at the public hearing. The reference number for this docket is OAR–2003–0187. Parties wishing to present oral testimony at the public hearing should provide written notice to David Dickinson at: U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., (6405J), Washington, DC 20460. Telephone: (202)564–9256. If EPA receives a request for a public hearing, the public hearing will be held in the first floor conference room at 501 3rd Street, NW., Washington, DC.

**SUPPLEMENTARY 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 OAR–2003–0187. 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 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) 566–1743.

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 section ''A.1.''

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.

## 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.

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–2003–0187. 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 *www.A-and-R-docket.epa.gov*, Attention Docket ID No. OAR–2003–0187. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD–ROM*. You may submit comments on a disk or CD-ROM that you mail to the mailing address identified in section ''A. 1.'' These electronic submissions will be accepted

in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail*. Send your comments to: U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue, NW., Room B108 Mailcode: 6102T, Washington, DC 20460, Attention Docket ID No. OAR–2003–0187

3. *By Hand Delivery or Courier*. Deliver your comments to: EPA Docket Center (Air Docket), Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20004, Attention Docket ID No. OAR–2003–0187. Such deliveries are only accepted during the Docket's normal hours of operation as identified in section ''A.1.''

4. *By Facsimile*. Fax your comments to: (202) 566–1742, Attention Docket ID. No. OAR–2003–0187.

**C. How Should I Submit CBI to the Agency?**

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. Send or deliver information identified as CBI only to the addresses noted in B. 2 or B. 3 above, Attention Docket ID No. OAR–2003–0187. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD–ROM, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD–ROM, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**D. 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.

**E. Background and Discussion**

Section 209(a) of the Clean Air Act, as amended (''Act''), 42 U.S.C. 7543(a), provides:

> No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No state shall require certification, inspection or any other approval relating to the control of emission from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

Section 209(b)(1) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209(a) for any State that has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable federal standards. California is the only State that is qualified to seek and receive a waiver under section 209(b). The Administrator must grant a waiver unless he finds that (A) the determination of the State is arbitrary and capricious, (B) the State does not need the State standards to meet compelling and extraordinary conditions, or (C) the State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

CARB's January 29, 1999, letter to the Administrator notified EPA that it had adopted new standards and test procedures to control emissions from aggressive driving and air conditioning use. This regulatory action consisted of amendments to CARB's regulations found at 13 California Code of Regulations 1960.1, 2062, and 2101 and the incorporated ''California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles,'' ''California New Vehicle Compliance Test Procedure,'' and ''California Assembly-Line test Procedures for 1998 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.''

EPA invites comment on the following issues: Whether (a) California's determination that its standards (including its new test procedures and associated standards noted above and in its January 29, 1999, request letter) are at least as protective of public health and welfare as applicable federal standards is arbitrary and capricious, (b) California needs separate standards to meet compelling and extraordinary conditions, and (c) California's standards and accompanying enforcement procedures are consistent with section 202(a) of the CAA?

**Procedures for Public Participation**

In recognition that public hearings are designed to give interested parties an opportunity to participate in this proceeding, there are no adverse parties as such. Statements by participants will not be subject to cross-examination by other participants without special approval by the presiding officer. The presiding officer is authorized to strike from the record statements that he or she deems irrelevant or repetitious and to impose reasonable time limits on the duration of the statement of any participant.

If hearing(s) are held, the Agency will make a verbatim record of the proceedings. Interested parties may arrange with the reporter at the hearing(s) to obtain a copy of the transcript at their own expense. Regardless of whether public hearing(s) are held, EPA will keep the record open until December 3, 2003. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record of the public hearing(s), if any, relevant written submissions, and other information that he deems pertinent.

Dated: October 20, 2003.

**Robert Brenner,**

*Acting Assistant Administrator for Air and Radiation.*

[FR Doc. 03–27554 Filed 10–31–03; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Notice of Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Services' claims collection regulations (45 CFR part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery. The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the ''Schedule of Certified Interest Rates with Range of Maturities.'' This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Services in the **Federal Register.**

The Secretary of the Treasury has certified a rate of 12% for the quarter ended September 30, 2003. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Dated: October 27, 2003.

**George Strader,**

*Deputy Assistant Secretary, Finance.*

[FR Doc. 03–27594 Filed 10–31–03; 8:45 am]

BILLING CODE 4150–04–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 1998D–0896]**

### Guidance for Industry and Food and Drug Administration Staff; Premarket Approval Application Modular Review; 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 ''Premarket Approval Application Modular Review.'' This guidance document is intended to provide industry and FDA staff with information regarding the premarket approval application (PMA) modular review program. This guidance document is immediately in effect, but it remains subject to comment in accordance with the agency's good guidance practices (GGPs).

**DATES:** Submit written or electronic comments on agency guidances at any time.

**ADDRESSES:** Submit written requests for single copies on a 3.5'' diskette of the guidance document entitled ''Premarket Approval Application Modular Review'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this 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*. Identify comments with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Nicole Wolanski, Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2186.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

This guidance document provides FDA's recommendations about the content of a modular PMA and the procedures for submitting and reviewing a modular PMA. This document supersedes and replaces the guidance document entitled ''Guidance for the Medical Device Industry on PMA Shell Development and Modular Review'' issued on November 6, 1998.

FDA is making this guidance effective immediately because there is a statutory requirement that requires immediate implementation, and guidance is needed to help effect such implementation. On October 26, 2002, the Medical Device User Fee and Modernization Act of 2002 (MDUFMA) was signed into law. Section 209 of MDUFMA amended section 515(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)), to codify FDA's modular review program for PMAs and authorize FDA to assess user fees for modular PMAs. In developing this guidance, the agency has considered its experience with its modular review program and comments on the topic that were submitted to the public docket on MDUFMA Implementation (Docket No. 02N–0534 (68 FR 5643, February 4, 2003)).

#### II. Significance of Guidance

This guidance is being issued consistent with FDA's GGPs regulation (21 CFR 10.115). The guidance represents the agency's current thinking on modular PMAs. 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 statute and regulations.

#### III. Paperwork Reduction Act of 1995

This 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 (the PRA) (44 U.S.C. 3501–3520). The collections of information addressed in the guidance document have been approved by OMB in accordance with the PRA under the regulations governing PMAs (21 CFR part 814, OMB control number 0910–0231).

#### IV. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), written or electronic comments on the guidance at any time. Submit a single copy of electronic comments to *http://www.fda.gov/dockets/ecomments*. Submit two paper copies of any mailed comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and comments received may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

#### V. Electronic Access

To receive a copy of ''Premarket Approval Application Modular Review'' by fax, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt, press 1 to order a document. Enter the document number (835) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so by using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html*. Guidance documents are also available on the Division of Dockets Management Internet site at *http://www.fda.gov/ohrms/dockets*.

Dated: October 8, 2003.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 03–27561 Filed 10–31–03; 8:45 am]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Proposed Revisions to Nurse Practitioner and Nurse-Midwifery Education Program Guidelines

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice of request for comments.

**SUMMARY:** The Health Resources and Services Administration (HRSA) invites comments on the proposed revised Nurse Practitioner and Nurse-Midwifery Education Program Guidelines for use in the Advanced Education Nursing Grant Program.

**DATES:** Comments must be postmarked by December 3, 2003.

**ADDRESSES:** Written comments should be submitted to the Division of Nursing, Bureau of Health Professions (BHPr), Health Resources and Services Administration (HRSA), Room 9–35, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Respondents should provide a rationale for their suggested changes or additions. All comments will be available for public inspection and copying at the Division of Nursing, BHPr, Room 9–35, Parklawn Building at the address above weekdays between 8:30 a.m. and 5 p.m.

**FOR FURTHER INFORMATION CONTACT:** Irene Sandvold, Division of Nursing, BHPr, HRSA, at (301) 443–6333.

**SUPPLEMENTARY INFORMATION:** The Guidelines for Nurse Practitioner and Nurse-Midwifery Programs were initially developed in 1976 through a process that included consultation with appropriate educational and professional nursing and medical organizations, and public comment. The original final guidelines were published in the **Federal Register** (43 FR 43416) as regulation on November 29, 1977. On August 27, 2001 HHS issued a final rule in the **Federal Register** (66 FR 44981) that rescinded and removed most of the BHPr regulations, including the previous guidelines related to nurse practitioner and nurse-midwifery education programs. This action was taken by the Department in its effort to simplify government procedures.

These proposed Guidelines implement Section 811(c) of the PHS Act, which states that—

Nurse Practitioner and nurse-midwifery programs eligible for support under this section are educational programs for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) that—

(1) Meet guidelines prescribed by the Secretary, and

(2) Have as their objective the education of nurses who will upon completion of their studies in such programs be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities, acute care, and other health care settings.

These Guidelines are intended to promote the quality of nurse practitioner and nurse-midwifery programs funded by the Division of Nursing. Definitions in these Guidelines are those used by other Federal and State health entities. The Department invites comments on the following proposed Guidelines for the Nurse Practitioner and Nurse-Midwifery Education Program.

### Federal Nurse Practitioner and Nurse-Midwifery Education Program Guidelines

*Overview*

*Nurse practitioner* education programs funded under this authority are graduate level programs that can provide evidence of accreditation from a recognized body or by a State agency, approved for such purpose by the U.S. Department of Education. In addition, programs are expected to be consistent with the current *Advanced Nursing Practice: Curriculum Guidelines & Program Standards for Nurse Practitioner Education* and current *Criteria for Evaluation of Nurse Practitioner Programs, A Report of the National Task Force on Quality Nurse Practitioner Education.* Both documents are available from the National Organization of Nurse Practitioner Faculties, 1522 K Street, NW #702, Washington, DC 20005; telephone: (202) 289–8044. At a minimum, graduates must be prepared to meet national competencies established in *Nurse Practitioner Primary Care Competencies in Specialty Areas: Adult, Family, Gerontological, Pediatric, and Women's Health.* This document is available online at *http://www.nonpf.com; http://www.aacn.nche.edu/Education/NPCompetencies.htm;* and can be obtained from the HRSA Information Center (1–800–CALL–HRSA).

*Nurse-Midwifery* education programs must provide evidence of pre-accreditation or accreditation from the American College of Nurse-Midwives (ACNM), Division of Accreditation, recognized for this purpose by the U.S. Department of Education, prior to Notice of Grant Award. Programs must comply with the following criteria, as applicable:

(a) the current *Criteria for Pre-accreditation of Education Programs in Nurse-Midwifery and Midwifery with Guidelines for Elaboration and Documentation of Pre-accreditation Criteria;* or

(b) The current *Criteria for Accreditation of Education Programs in Nurse-Midwifery and Midwifery with Guidelines for Elaboration and Documentation of Accreditation Criteria.*

At a minimum, graduates of these programs must be prepared to meet national competencies established in *The Core Competencies for Basic Midwifery Practice.* The above three documents are available from the ACNM at Suite 900, 818 Connecticut Avenue, NW., Washington, DC 20006; telephone: (202) 728–9860.

### Organization and Administration

A nurse practitioner or nurse-midwifery education program should actively collaborate with nurses and other health professionals who have expertise relevant to nurse practitioner or nurse-midwifery practice and primary health care, to assist in the initial and ongoing planning, implementation, and evaluation of the program.

**Student Enrollment**

All students enrolled in a nurse practitioner or nurse-midwifery education program should be licensed to practice nursing—

(a) At the time of enrollment, or

(b) In the case of a program leading to a graduate degree in nursing, at or prior to the time of completion of a program.

The policies for the recruitment, selection and progression of students should be consistent with the requirements of the sponsoring institution and developed in cooperation with the faculty responsible for conducting the nurse practitioner and/or nurse-midwifery program. Programs should develop, implement, and evaluate specific plans to achieve recruitment, retention, timely progression and graduation of a diverse student body.

**Length of Program**

A nurse practitioner or nurse-midwifery education program is a formal program of study of a minimum of 1 academic year (9 months) in length and should include at least 4 months in the aggregate of full-time didactic instruction. Post-master=s programs must also meet this requirement.

**Curriculum**

A nurse practitioner or nurse-midwifery education program should be a distinct program of study consisting of didactic instruction and supervised clinical practice designed to teach registered nurses the knowledge and competencies needed to perform the functions and scope of practice of a nurse practitioner or nurse-midwife. The faculty has the ultimate responsibility for evaluation of student clinical performance and achievement of competence. The nurse practitioner and nurse-midwifery specialty portion of the graduate curriculum should be developed and implemented cooperatively by nurse practitioner and/or nurse-midwife educators, other graduate nursing faculty, and appropriate representatives of other health disciplines. Interdisciplinary academic and practice learning experiences are recommended to prepare graduates to serve underserved populations in complex health systems. The program content, both didactic and clinical portions, should prepare the nurse practitioner or nurse-midwife to provide primary health care within community settings. The nurse practitioner and nurse-midwife should be knowledgeable about the cultural factors that affect the health status of the populations served and how to assist the community in making decisions about its priorities and health services.

The curriculum must include student preceptorships and/or other clinical learning experiences. Faculty should develop and assess clinical learning sites through site visits and prepare clinical faculty and preceptors for teaching, evaluating, and problem solving with nurse practitioner and nurse-midwifery students. Nurse practitioner or nurse-midwifery program faculty retain full responsibility for assuring the quality and effectiveness of each practicum site for student learning. The grant applicant should document in the application the specific criteria used for the selection of clinical learning sites.

**Faculty Qualifications**

A nurse practitioner or nurse-midwifery education program should have a sufficient number of qualified nursing, medical and other related health professional faculty with academic preparation and clinical expertise relevant to their areas of teaching responsibility and with demonstrated ability in the development and implementation of educational programs. The program director should be a nationally certified nurse practitioner or nurse-midwife, with appropriate academic preparation, clinical expertise and experience as an educator. Nurse practitioner and nurse-midwife clinical faculty and preceptors should have national and/or State certification as appropriate for their specialty and should have at least one year of practice experience as a nurse practitioner or certified nurse-midwife. Other clinicians serving as clinical preceptors should be authorized by the State licensing entity to practice in their specific scope of practice. Faculty qualifications should be consistent with the requirements of their academic institution. The faculty should participate in maintenance of competency and clinical practice according to the National Task Force on Quality Nurse Practitioner Education guidelines and ACNM guidelines for continued competency.

**Resources**

A nurse practitioner or nurse-midwifery education program must have available sufficient educational and clinical resources in a variety of practice settings with adequate space and equipment, number, age and type of clients needed for the number of students enrolled in the program. Where the institution or organization conducting the program does not provide the clinical practice settings itself, it should provide for such settings through written agreements with other appropriate institutions or organizations.

**Definitions**

The following terms are defined for purposes of the Nurse Practitioner and Nurse-Midwifery Program.

*Culturally and Linguistically Appropriate Services* means health care services that are respectful of and responsive to cultural and linguistic needs.

*Full-time Student* means a student enrolled in at least the number of credits defined as full-time by the institution.

Full-time educational program means an educational program that provides for a full-time program of study as defined by the institution. Students progressing through the program are able to enroll on a full-time basis to complete the program in a timely manner. Students in such a program may be part-time or full-time.

*Nurse-Midwife* means a registered nurse educated in the two disciplines of nursing and midwifery, who has successfully completed a nurse-midwifery education program accredited by the American College of Nurse-Midwives (ACNM). Following national ACNM/American College of Nurse-Midwives Certification Council (ACC) certification, the nurse-midwife has abilities to provide independent management of primary health care for women, in the context of family-centered care, focusing particularly on pregnancy, childbirth, the postpartum period, care of the newborn, and the family planning and gynecological needs of women within a health care system that provides for consultation, collaborative management or referral as indicated by the health status of the client, including the abilities to:

- Assess the health status of women and infants, through health and medical history taking, physical examination, ordering and interpreting diagnostic tests and making diagnoses;
- Institute and provide continuity of primary health care to women and refer to other health care providers as appropriate;
- Prescribe pharmacological and non-pharmacological therapeutics, consistent with current standards of care;
- Provide instruction and counseling to individuals, families, and groups in the areas of promotion and maintenance of health and disease prevention, including involving such persons in planning for their health care; and
- Collaborate with other health care providers and agencies to provide, and

where appropriate, coordinate services to individual women, children, and families.

*Nurse Practitioner* means a registered nurse who has successfully completed a formal program of study designed to prepare registered nurses to deliver primary health care, involving independent and interdependent decision making and direct accountability for clinical judgment, including the abilities to:

- Assess the health status of individuals and families through health and medical history taking, physical examination, ordering and interpreting diagnostic tests and making diagnoses;
- Institute and provide continuity of primary health care to individuals and families; and refer to other health care providers when appropriate;
- Prescribe treatments including pharmacological and non-pharmacological therapeutics, consistent with current standards of care;
- Provide instruction and counseling to individuals, families, and groups in the areas of promotion and maintenance of health and disease prevention, including involving such persons in planning for their health care; and
- Collaborate with other health care providers and agencies to provide, and where appropriate, coordinate services to individuals and families.

*Nurse Practitioner or Nurse-Midwifery Program* means a full-time educational program of study, as defined by the institution, (although students may be progressing through the program on a full-time or part-time basis), which meets the Guidelines prescribed herein. The program's objective is the education of nurses who will, upon completion of their studies in the program, be qualified to effectively provide primary health care in a variety of settings, including in homes, ambulatory care facilities, long-term care facilities, acute care, and other health care settings.

*Post-Nursing Master's Certificate Program* means a formal, post-graduate program for Registered Nurses with master's degrees that awards a certificate and academic credit for completion of the program of study as a Nurse Practitioner or Nurse-Midwife.

*Preceptorship* means a clinical learning experience in which the student is assigned to a faculty member or with oversight by program faculty to a designated preceptor who is a nurse practitioner or nurse-midwife or other health professional for specific aspects of the clinical learning experience. The preceptorship provides the student with practice experiences conducive to meeting the defined goals and objectives of the particular clinical course. The preceptor is responsible for the daily teaching and assignment of individuals to be cared for, supervision, and participation in the evaluation of the nurse practitioner or nurse-midwifery student. The preceptor teaches, supervises, and evaluates the student and provides the student with an environment that permits observation, active participation, and management of primary health care. Before and during this preceptorship program faculty visits and assesses clinical learning sites and prepares clinical faculty/preceptors for teaching their students.

*Primary Care* means the provision of integrated, accessible health care services by clinicians, including nurse practitioners and nurse-midwives, who are accountable for addressing a large majority of personal health care needs within their scopes of practice, developing a sustained partnership with clients, and practicing in the context of family and communities. Critical elements also include accountability of clinicians and systems for quality of care, consumer satisfaction, efficient use of resources, and ethical behavior. Clients have direct access to an appropriate source of care, which continues over time for a variety of problems and includes needs for preventive services. Primary care and Primary Health Care are used interchangeably in this document. (Definition adapted from Barbara Starfield, *Primary Care Concept, Evaluation, and Policy,* Oxford University Press, New York, 1992 p. 4 and Institute of Medicine:

Moila S. Donaldson, Karl D. Yordy, Kathleen N., and Neal A. Vanselow, Editors, Committee on the Future of Primary Care, Division of Health Care Services, *Primary Care: America's Health in a New Era, Summary* , National Academy Press, Washington, DC, 1996, p. 23.)

Dated: October 27, 2003.

**Elizabeth M. Duke,**

*Administrator.*

[FR Doc. 03–27563 Filed 10–31–03; 8:45 am]

BILLING CODE 4165–15–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Privacy Act of 1974; New System of Records

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notification of new system of records.

**SUMMARY:** In accordance with the requirements of the Privacy Act, the Health Resources and Services Administration (HRSA) is publishing notice of a proposal to add a new system of records. The Smallpox Vaccine Injury Compensation Act of 2003 (''the Act''), amended title II of the Public Health Service Act (42 U.S.C. 202 *et seq.*) to provide benefits and other compensation for certain individuals with injuries resulting from the administration of smallpox countermeasures or as a result of vaccinia contracted through accidental vaccinia inoculation. The Act directs the Secretary, HHS, to establish administrative procedures to compensate certain individuals who sustained a covered injury as the direct result of the administration of smallpox vaccine, and certain individuals who sustained a covered injury as a direct result of accidental vaccinia inoculation through contact with the foregoing persons or with individuals accidently inoculated by them. This system of records is required to comply with the implementation directives of the Act, Public Law 108–20. The records will be used for the Smallpox Vaccine Injury Compensation Program's (SVICP) planning, implementation, payment, evaluation, monitoring, and document storage purposes.

**DATES:** HRSA invites interested parties to submit comments on the proposed New System of Records on or before December 15, 2003. As of the date of the publication of this Notice, HRSA has sent a Report of New System of Records to Congress and to the Office of Management and Budget (OMB). The New System of Records will be effective 40 days from the date submitted to OMB unless HRSA receives comments that would result in a contrary determination.

**ADDRESSES:** Please address comments to Health Resources and Services Administration (HRSA) Privacy Act Officer, 5600 Fishers Lane, Room 14A–20, Rockville, Maryland 20857; telephone (301) 443–3780. This is not a toll-free number. Comments received will be available for inspection at this same address from 9 a.m. to 3 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Director, Office of Special Programs, Health Resources and Services Administration, 5600 Fishers Lane, Room 16C–17, Rockville, Maryland 20857; telephone (301) 443–3300. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** The Health Resources and Services Administration (HRSA) proposes to establish a new system of records: ''The Smallpox Vaccine Injury Compensation Program, HHS/HRSA/OSP.'' The Act authorizes the creation of a Smallpox Vaccine Injury Compensation Program (''the Program'') by directing the Secretary, HHS, to establish administrative procedures designed to provide benefits and other compensation to certain individuals who sustained a covered injury as the direct result of the administration of smallpox countermeasures, and certain individuals who sustained a covered injury as a direct result of accidental vaccinia inoculation through contact with the foregoing persons or with individuals accidently inoculated by them. The Secretary will issue regulations implementing the Program. Individuals eligible to be considered for benefits and other compensation are:

1. (a) Health care workers, law enforcement officers, firefighters, security personnel, emergency medical personnel, other public safety personnel, or support personnel for such occupational specialties;

(b) Who are or will be functioning in a role identified in a State, local, or HHS smallpox emergency response plan approved by the Secretary;

(c) Who have volunteered for, and been selected to be members of, a smallpox emergency response plan prior to the time at which the Secretary publicly announces that an active case of smallpox has been identified either within or outside of the United States;

(d) To whom a smallpox vaccine is administered pursuant to such an approved plan during the effective period of the Declaration Regarding Administration of Smallpox Countermeasures (''the Declaration'') issued by the Secretary, HHS, on January 24, 2003, and published in the **Federal Register** on January 28, 2003 (68 FR 4212); and

(e) Who sustain a covered injury, disability, illness, condition, or death as a direct result of receiving a covered countermeasure, including the smallpox vaccine, during the effective period of the Declaration; or

2. Certain individuals who sustain a covered injury, disability, illness, condition, or death as a direct result of vaccinia contracted through contact with one or more of the individuals described above or through contact with individuals accidently inoculated by those individuals, during the specified time frame.

Subject to certain provisions, the Act authorizes benefits and other compensatory payments, generally secondary to other available coverage, for the following:

(1) Reasonable and appropriate medical items and services to treat a covered injury.

(2) Lost employment income incurred as a result of a covered injury beyond the first five days of work missed unless the loss of employment extends beyond nine days, to a maximum of $50,000 for any given year with a limited exception for persons with a permanent and total disability, through the age of 65.

(3) Death payment to survivors in circumstances in which death is determined to have resulted from a covered injury.

This system of records is required to comply with the implementation directive set forth in the Act. It will be used for Program planning, implementation, payment, evaluation, monitoring, and document storage purposes.

HRSA permits disclosure of the records to third parties pursuant to the following routine uses: The first routine use permits disclosure to a congressional office to allow subject individuals to obtain assistance from their representatives in Congress, if they wish to do so. The second routine use allows disclosure to Federal, State or local Government entities or to private entities for the purpose of their providing information relevant to medical or legal documentation required for determinations of eligibility or payment. The third routine use allows disclosure of records to contractors engaged by the Department who need access to the records in order to assist the Department, *e.g.*, expert consultants providing advice on requesters' eligibility for benefits and/or compensation. The fourth routine use allows disclosure of records to individuals and/or entities as necessary for the purposes of obtaining financial advice and providing benefits and other compensation to requesters approved for payment under the Program. The fifth routine use allows disclosure to a Federal agency administering aspects of the Program under a Memorandum of Agreement or assisting in the accomplishment of a Departmental function related to the purposes of the Program. The sixth routine use allows disclosure of records to the Department of Justice or a court, in the event of litigation. The seventh routine use allows disclosure to the appropriate Federal, State or local agency in the event of a violation of law. The eighth routine use allows disclosure of records for certain medical research purposes.

The following notice is written in the present tense, rather than the future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after the system becomes effective.

Dated: October 28, 2003.

**Elizabeth M. Duke,**

*Administrator, Health Resources and Services Administration.*

**09–15–0065**

**SYSTEM NAME:**

Smallpox Vaccine Injury Compensation Program, HHS/HRSA/OSP.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Office of Special Programs, Health Resources and Services Administration, 4350 East-West Highway, 10th Floor, Bethesda, Maryland 20814.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals covered by the system are requesters and/or their representatives filing for benefits and other compensation under the Smallpox Vaccine Injury Compensation Program.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records consist of documents that may include general or congressional correspondence, requests, case number assignment, HHS responses, medical and legal documentation, employment documentation, documentation concerning services or benefits available from the United States or any third party (including any State or local governmental entity, private insurance carrier, or employer), payment information, and other related case processing documents.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Management of the system is authorized by Pub. L. 108–20, the Smallpox Emergency Personnel Protection Act of 2003, enacted April 30, 2003 (42 U.S.C. 239 *et seq.*).

**PURPOSE(S):**

The purpose of the system is to provide for benefits and other compensatory payments to certain individuals who sustained a covered injury as the direct result of the administration of smallpox countermeasures, and certain individuals who sustained a covered injury as a direct result of accidental vaccinia inoculation through contact with the foregoing persons or with individuals accidently inoculated by them, during a specified time period.

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

1. Disclosure may be made to a congressional office from the record of a subject individual, in response to an inquiry from the congressional office made at the written request of that individual or his/her representative.

2. Disclosure may be made to Federal, State or local Government entities or to private entities for the purpose of their providing information relevant to medical or legal documentation required for determinations of eligibility or payment, provided that such disclosure is compatible with the purpose for which the records were collected.

3. Disclosure of records may be made to contractors engaged by the Department who need access to the records in order to assist the Department, *e.g.*, expert consultants providing advice on requesters' eligibility for benefits and/or compensation. All such individuals shall be required to maintain Privacy Act safeguards with respect to such records and return all records to HRSA.

4. Disclosure of records may be made to individuals and/or entities as necessary for the purposes of obtaining financial advice and providing benefits and other compensation to requestors approved for payment under the Program. All individuals and/or entities permitted disclosure for this use shall be required to maintain Privacy Act safeguards with respect to such records and return all records to HRSA.

5. Disclosure of records may be made to a Federal agency administering aspects of the Program, as authorized by a Memorandum of Agreement between the Secretary and the head of the Federal agency, or to another Federal agency assisting in the accomplishment of a Departmental function relating to the purposes of this system of records, provided that such disclosure is compatible with the purposes for which the records are collected.

6. Disclosure of records may be made in the event of litigation where the defendant is:

(a) The Department, any component of the Department, or any employee of the Department in his or her official capacity;

(b) The United States where the Department determines that the action, if successful, is likely to affect directly the operation of the Department or any of its components; or

(c) Any Department employee in his or her individual capacity where the Department of Justice (DoJ) has agreed to represent such employee, for example, in defending an action against the Department in connection with such individual, disclosure may be made to DoJ to enable DoJ to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

7. Disclosure may be made in the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State or local, charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, provided that such disclosure is compatible with the purpose for which the records were collected.

8. A record may be disclosed for a medical research purpose, only when the Department has determined:

(a) That the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(b) That the research purpose is consistent with the purpose for which the Program was formed;

(c) That the proposed research is scientifically sound in its methods and analyses and is likely to answer the proposed research question;

(d) That the information sought is not available from any other source; and

(e) That the record made available for medical research is redacted of all personal identifiers regarding injured individuals, health care practitioners and employers that are not essential for the accomplishment of the approved research purpose.

(f) The recipient must:

(1) Establish strict limitations acceptable to the Department concerning the receipt and use of any patient-identifiable data;

(2) Establish reasonable administrative, technical, and physical safeguards and/or protocols acceptable to the Department to protect the confidentiality of the data and to prevent the unauthorized use or disclosure of the record;

(3) Remove or destroy the information that identifies an individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project; and

(4) Make no further use or disclosure of the record except when required by law.

(a) Further, the Department must secure and approve a written statement attesting to the recipient's understanding of, and agreement to abide by, these conditions of disclosure. Violation of these provisions is subject to penalties set forth under 5 U.S.C. 552a(i)(3) and any other applicable Federal law.

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

Records are maintained in file folders, on computer hard drives and/or disk packs, or in electronic media storage.

**RETRIEVABILITY:**

Retrievability is by name of the requester, and by case number assigned based on the order in which a request form is filed.

**SAFEGUARDS:**

1. Assign Responsibility for Security: Responsibility is assigned to a management official knowledgeable in the nature of the information and process supported by the Smallpox Vaccine Injury Compensation Program (SVICP) request and in the management, personnel, operational, and technical controls used to protect it.

2. Perform Risk Assessment: A risk assessment is to be conducted in conjunction with the development of, and prior to the approval of, the system design and will ensure that vulnerabilities, risks, and other security concerns are identified and addressed in the system design and throughout the life cycle of the project. This is consistent with the HHS Automated Information Systems Security Program Handbook (in particular Chapters V and X).

3. Develop SVICP Request Security Plan: Plan for the adequate security of the SVICP request, taking into account the security of all systems in which the request will operate. SVICP request security plans shall address request rules, training on use of the system, personnel security, contingency planning, technical controls, information sharing, and public access controls.

4. Review SVICP Request Controls: Perform an independent review or audit of the SVICP request security control in accordance with applicable Federal requirements and/or guidelines.

5. Authorize Processing: Ensure that a management official authorizes, in writing, confirmation that the security plan as implemented adequately secures

the SVICP request. The SVICP request must be authorized prior to operating and reauthorized in accordance with applicable Federal requirements and/or guidelines.

6. Implementation Guidelines: DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual; the DHHS Automated Information Systems Security Program Handbook; and Appendix III to OMB Circular No. A–130; Appendix I, ''Federal Agency Responsibilities for Maintaining Records About Individuals.''

**RETENTION AND DISPOSAL:**

Records will be retained and disposed of in accordance with the Records Control Schedule of the Health Resources and Services Administration.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Special Programs, Health Resources and Services Administration, 5600 Fishers Lane, Room 16C–17, Rockville, Maryland 20857, or the Director's designee.

**NOTIFICATION PROCEDURE:**

Requests must be made to the System Manager.

Requests by mail: Requests for information and/or access to records received by mail must contain information providing the identity of the writer, and a reasonable description of the record desired, and whom it concerns. Written requests must contain the name and address of the requester, his/her date of birth and his/her signature for comparison purposes. Requests must be notarized to verify the identity of the requester, or the requester must certify that (s)he is the individual who (s)he claims to be and that (s)he understands that to knowingly and willfully request or acquire a record pertaining to another individual under false pretenses is a criminal offense under the Privacy Act subject to a $5,000 fine (45 CFR 5b.5(b)(2)(ii)).

Requests in person or by telephone, electronic mail or facsimile cannot be honored.

**RECORD ACCESS PROCEDURES:**

Record access procedures are the same as notification procedures. Requesters should also provide a reasonable description of the contents of the record being sought. A parent or guardian who requests notification of, or access to, a minor's/incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the minor/incompetent person as well as his/her own identity. Records will be mailed only to the requester=s address that is on file, unless a different address is demonstrated by official documentation.

**CONTESTING RECORDS PROCEDURES:**

To contest a record in the system, contact the System Manager at the address specified above and reasonably identify the record, specify the information being contested, and state the corrective action sought and the reason(s) for requesting the correction, along with supporting documentation to show how the record is inaccurate, incomplete, untimely, or irrelevant.

**RECORD SOURCE CATEGORIES:**

Sources of records include, but are not limited to, requesters and/or their representatives under the Smallpox Vaccine Injury Compensation Program, and any other sources of information or documentation submitted by any other person or entity for inclusion in a request for the purpose of determining medical or legal eligibility for, or amount of benefits and/or compensation under, the Program (*e.g.*, Federal, State, or local government or private health care entities participating in the administration of covered countermeasures under the Declaration).

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

[FR Doc. 03–27562 Filed 10–31–03; 8:45 am]

BILLING CODE 4165–15–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Proposed Collection; Comment Request; Customer Satisfaction Surveys

**SUMMARY:** In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for the opportunity for public comment on the proposed data collection projects, the Center for Scientific Review (CSR), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

### Proposed Collection

*Title:* Customer Satisfaction Surveys.

*Type of Information Collection Request:* Reinstatement.

*Need and Use of Information Collection:* The information collected in these surveys will be used by the Center for Scientific Review management and personnel: (1) To assess the quality of the modified operations and processes now used by CSR to review grant applications; (2) To assess the quality of service provided by CSR to our customers; (3) To examine and assess the effectiveness of the reorganization and reconfiguration of the peer review study committees based on customer input; (4) To develop new modes of operation based on customer need and customer feedback about the efficacy of implemented modifications. These surveys will almost certainly lead to quality improvement activities that will enhance and/or streamline CSR's operations. The major mechanism by which CSR will request input is through surveys. The survey for customers, i.e., past and present grant applicants, is generic, but will have slight variations tailored to the scientific subject category of each major Integrated Review Group (IRG). The next major reorganized IRGs to be evaluated consist of the Behavioral and Social Sciences peer review study sections. Surveys will be collected via Internet. Information gathered from these surveys will be presented to, and used directly by, CSR management to enhance the operations, processes, organization of, and services provided by the Center. Frequency of Response: The participants will respond once, unless there is a compelling reason for a subsequent survey.

*Affected public:* Universities, not-for-profit institutions, business or other for-profit, small businesses and organizations, and individuals.

*Type of Respondents:* Adult scientific professionals.

The annual reporting burden is as follows: It is estimated that the survey form will take 20 minutes to complete. The annual hour burden is, therefore, estimated to be 600 hours for approximately 1,800 respondents in FY 2004, 600 hours for approximately 1,800 respondents in FY 2005, 600 hours for approximately 1,800 respondents in FY 2006. Estimated costs to the respondents consist entirely of their time. Costs for time were estimated using a rate of $40.00 per hour for principal investigators/grant applicants. The estimated annual cost burden for respondents for each year for which the generic clearance is requested is $24,000 for FY 2004, $24,000 for FY 2005 $24,000 for FY 2006. No additional costs should be incurred by respondents. There will be dissemination and analysis costs for the survey originators.

*Requests for Comments:* Written comments and/or suggestions from the

public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the CSR, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond while maintaining their anonymity, including the use of automated, electronic, mechanical, or other technological collection techniques of other forms of information technology.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans, contact: Karl F. Malik, PhD., Assistant to the Deputy Director, Office of the Director, Center for Scientific Review, National Institutes of Health, Rockledge II, Rm 3016, 6701 Rockledge Drive, Bethesda, MD 20814–9692, or call non-toll free: 301–435–1114, or e-mail your request or comments, including your address to: *malikk@csr.nih.gov.*

*Comments Due Date:* Comments regarding this information collection are best assured of having their full effect if relieved within 60 days of the date of this publication.

Dated: October 24, 2003.

**Brent Stanfield,**

*Acting Director, Center for Scientific Review, National Institutes of Health.*

[FR Doc. 03–27585 Filed 10–31–03; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, Public Health Service, HHS.

**ACTION:** Notice.

**SUMMARY:** The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

**ADDRESSES:** Licensing information and copies of the U.S. patent application listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: (301) 496–7057; fax: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent application.

**Enhanced Sensitivity ELISA for SARS Diagnostic**

Gary Nabel *et al.* (NIAID)
U.S. Provisional Application filed 15 Sep 2003 (DHHS Reference No. E–334–2003/0–US–01)
*Licensing Contact:* Susan Ano; 301/435–5515; *anos@mail.nih.gov.*

Reagents and protocols for extremely sensitive ELISA for use as a SARS diagnostic are described. The ELISA uses recombinantly-expressed nucleoprotein (N) or spike (S) glycoprotein from the SARS coronavirus as capture antigens. As little as five (5) days after onset, detection of antibody response is possible. The ELISA described herein is more sensitive than existing technology because of the N and S proteins; existing ELISAs use formalin-inactivated whole virus or peptides.

**Inhibition of Retrovirus Gene Expression by PSF**

Andrei Zolotukhin *et al.* (NCI)
U.S. Provisional Application No. 60/484,156 filed 30 Jun 2003 (DHHS Reference No. E–224–2003/0–US–01)
*Licensing Contact:* Susan Ano; 301/435–5515; *anos@mail.nih.gov.*

This technology describes methods of identifying inhibitors of retrovirus (*e.g.* HIV) gene expression, where such inhibitors are small molecules or nucleic acids. The compounds thus identified could be used as potential anti-retroviral therapeutics. The candidate agents are those that affect the interaction of human polypyrimidine tract binding protein associated splicing factor (PSF) with inhibitory sequences (INS) present in the HIV–1 genome. PSF has been shown to bind to INS present in the HIV genome, thus decreasing the levels of retrovirus gene expression like gag and env. Therefore, compounds that modulate or enhance binding of PSF to INS are potential inhibitors of retrovirus expression. The methods involve analyzing the interaction of PSF with INS and evaluating the level of retrovirus gene expression in the presence of a candidate agent. The technology provides for PSF to be introduced into the cell using an expression vector that encodes PSF.

**Peptide Mimotopes of Lipooligosaccharide from Nontypeable Haemophilus influenzae as Vaccines**

Xin-Xing Gu (NIDCD)
U.S. Provisional Application No. 60/441,928 filed 22 Jan 2003 (DHHS Reference No. E–344–2002/0–US–01)
*Licensing Contact:* Susan Ano; 301/435–5515; *anos@mail.nih.gov.*

The invention relates to peptide mimotopes of lipooligosaccharide (LOS) from nontypeable *Haemophilus influenzae* (NTHi) that are suitable for developing a novel vaccine against the pathogen, for which there is currently no licensed vaccine. The mimotopes not only immunologically mimic LOS from NTHi but will also bind to antibodies specific for NTHi LOS. NTHi is a common pathogen that causes otitis media in children and lower respiratory tract infections in adults. The effectiveness of a vaccine could be increased by substitution of a LOS epitope with a peptide mimic. Preliminary experiments showed that the mimic peptides conjugated to a carrier were as effective as the LOS-based vaccine in stimulating a humoral immune response in rabbits. Thus, the identified peptides are promising candidates for developing a novel vaccine for NTHi.

Dated: October 24, 2003.

**Steven M. Ferguson,**

*Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. 03–27502 Filed 10–31–03; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Center for Research Resources; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Center for Research Resources Initial Review Group, Comparative Medicine Review Committee.

*Date:* February 3–4, 2004.

*Open:* February 3, 2004, 8 a.m. to 8:30 a.m.

*Agenda:* To discuss program planning and other issues.

*Place:* Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

*Closed:* February 3, 2004, 8:30 a.m. to Adjournment.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

*Contact Person:* Guo Zhang, MD, PhD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, One Democracy Plaza, 6701 Democracy Blvd., Room WS–1064, 10th Floor, Bethesda, MD 20814–9692, (301) 435–0812, *zhanggu@mail.nih.gov.*

*Name of Committee:* National Center for Research Resources Initial Review Group, Clinical Research Review Committee.

*Date:* February 11–12, 2004.

*Open:* February 11, 2004, 8 a.m. to 8:30 a.m.

*Agenda:* To discuss program planning and other issues.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

*Closed:* February 11, 2004, 8:30 a.m. to Adjournment.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

*Contact Person:* Sheryl K. Brining, PhD, Director Office of Review, National Institutes of Health, 6701 Democracy Blvd., 1 Democracy Plaza, Room 1074, Bethesda, MD 20892–4874, 301–435–0809, *sb44k@nih.gov.*

(Catalogue of Federal Domestic Assistant Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure, 93.306, 93.333, National Institutes of Health, HHS)

Dated: October 27, 2003.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 03–27580 Filed 10–31–03; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Heart, Lung, and Blood Initial Review Group, Heart, Lung, and Blood Program Project Review Committee.

*Date:* December 4, 2003.

*Time:* 8 a.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

*Contact Person:* Jeffrey H. Hurst, PhD, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892, (301) 435–0303.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: October 28, 2003.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 03–27582 Filed 10–31–03; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel, Non-clinical ADME Studies.

*Date:* November 4, 2003.

*Time:* 9 a.m. to 5 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Richard C. Harrison, Chief, Contract Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, 301–435–1437.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: October 27, 2003.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 03–27500 Filed 10–31–03; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Institutional Training and Career Development.

*Date:* November 18, 2003.

*Time:* 3:30 p.m.to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

*Contact Person:* Raul A Saavedra, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, NSC; 6001 Executive Blvd., Ste. 3208, Bethesda, MD 20892–9529, 301–496–9223, *saavedrr@ninds.nih.gov.*

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Training and Fellowships.

*Date:* November 24, 2003.

*Time:* 8 a.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Sofitel Lafayette Square Hotel, 806 15th Street, Washington, DC 20005.

*Contact Person:* Joann McConnell, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, Msc 9529, Bethesda, MD 20892–9529, (301) 496–5324, *mcconnej@ninds,nih.gov.*

*Name of Committee:* National Institute of Neurological disorders and Stroke Special Emphasis Panel, Training.

*Date:* November 24, 2003.

*Time:* 2 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Sofitel Lafayette Square, 806 15th Street, NW., Washington, DC 2005.

*Contact Person:* Joann McConnell, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, Msc 9529, Bethesda, MD 20892–9529, (301) 496–5324, *mcconnej@ninds,nih.gov.*

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Udall Center Review Panel.

*Date:* December 3, 2003.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Willard Intercontinental, 1401 Pennsylvania Avenue, NW., Washington, DC 2004.

*Contact Person:* Joann McConnell, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, Msc 9529, Bethesda, MD 20892–9529, (301) 496–5324, *mcconnej@ninds,nih.gov.*

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Spotrias Review Panel.

*Date:* December 10–12, 2003.

*Time:* 7:30 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Four Points by Sheraton Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Katherine Woodbury, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–5980, *kw47o@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: October 27, 2003.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 03–27501 Filed 10–31–03; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Applications (R13s).

*Date:* November 20, 2003.

*Time:* 1:30 p.m. to 2:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

*Contact Person:* RoseAnne M McGee, Associate Scientific Review Administrator, Scientific Review Branch Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919–541–0752.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health, Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: October 27, 2003.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 03–27581 Filed 10–31–03; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Career Enhancement Award for Stem Cell Research.

*Date:* November 18, 2003.

*Time:* 2 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* John F. Connaughton, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 757, 6707 Democracy Boulevard, Bethesda, MD 20892, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov.*

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Clinical Studies of Kidney Diseases.

*Date:* December 9, 2003.
*Time:* 8 a.m. to 5 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Crystal City Courtyard by Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22202.
*Contact Person:* Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892, (301) 594–7799, *Is38z@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: October 28, 2003.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 03–27583 Filed 10–31–03; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Primates and the Immune System.
*Date:* November 24–25, 2003.
*Time:* 6:30 p.m. to 5 p.m.
*Agendas:* To review and evaluate grant applications.
*Place:* The Embassy Suites Hotel, Portland-Washington Square, 9000 SW., Washington Square Road, Tigard, OR 97223.
*Contact Person:* William Cruce, PhD, Scientific Review Administrator, National Institute on Aging, National Institutes of Health, Scientific Review Office, 7201 Wisconsin Avenue, Gateway Bldg. 2C212, Bethesda, MD 20814–9692, 301–402–7704, *crucew@Qnia.nih.gov.*

Dated: October 28, 2003.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 03–27584 Filed 10–31–03; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Prospective Grant of Exclusive License: Synthetic, Anti-Complement Protein and the Gene Encoding Same

**AGENCY:** National Institutes of Health, Public Health Service, DHHS.

**ACTION:** Notice.

**SUMMARY:** This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of world-wide exclusive license to practice the invention embodied in: United States Patent Numbers 5,157,110 and 5,187,268, entitled ''Synthetic Anti-Complement Protein and Gene Encoding Same'', issued October 20, 1992 and February 26, 1993, respectively, to K-Biotech, PTY, having a place of business in Cape Town, South Africa. The patent rights in this invention have been assigned to the United States of America.

**DATES:** Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before January 2, 2004 will be considered.

**ADDRESSES:** Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Susan Ano, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; e-mail: *anos@od.nih.gov;* Telephone: (301) 435–5515; Facsimile: (301) 402–0220.

**SUPPLEMENTARY INFORMATION:** The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The technology described in USPN 5,157,110 relates to the discovery of a protein, vaccinia complement protein (VCP), that inhibits the complement cascade. VCP is the smallest complement controlling protein, is soluble (complement inhibitors produced by humans are typically membrane-bound), does not have glycosylation sites, and acts via a different component of the complement compared to most other (inhibiting at C3 level rather than C5). The technology described in USPN 5,187,268 describes the cloned gene encoding this protein. Complement inhibitors may be used for combating inflammatory responses.

The field of use may be limited to development of anti-inflammatory therapeutics based on VCP.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: October 24, 2003.

**Steven M. Ferguson,**

*Director, Division of Technology Development and Transfer, Office of Technology Transfer.*

[FR Doc. 03–27503 Filed 10–31–03; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

### Designation of Manager, National Communications System

**AGENCY:** Office of the Secretary, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** In accordance with section 1(e)(1) of Executive Order 12472 of April 3, 1984, as amended by section 46 of Executive Order 13286 of February 28, 2003, the Secretary of Homeland Security announces the designation of the Assistant Secretary of Homeland Security for Infrastructure Protection, Information Analysis and Infrastructure Protection Directorate as the Manager, National Communications System (NCS).

**DATES:** The designation of the Manager, National Communications System is effective November 3, 2003.

**FOR FURTHER INFORMATION CONTACT:** If you have any questions about this notice, call Ms. Marilyn Witcher, Chief,

Industry, Government, and External Affairs, National Communications System, telephone 703–607–6214.

**SUPPLEMENTARY INFORMATION:** The NCS consists of the telecommunications assets of the entities represented on the NCS Committee of Principals and an administrative structure consisting of the Executive Agent, the NCS Committee of Principals, and the Manager. The mission of the NCS is to assist the President, the National Security Council, the Homeland Security Council, the Director of the Office of Science and Technology Policy, and the Director of the Office of Management and Budget in:

(1) The exercise of designated telecommunications functions and responsibilities; and

(2) The coordination of the planning for and provision of national security and emergency preparedness communications for the Federal government under all circumstances, including crisis or emergency, attack, recovery and reconstitution.

As stated in Section 1(g) of Executive Order 12472 of April 3, 1984, the Manager, NCS, shall develop for consideration by the NCS Committee of Principals and the Executive Agent:

(1) A recommended evolutionary telecommunications architecture designed to meet current and future Federal government national security and emergency preparedness telecommunications requirements;

(2) Plans and procedures for the management, allocation and use, including the establishment of priorities or preferences, of Federally owned or leased telecommunications assets under all conditions of crisis or emergency;

(3) Plans, procedures and standards for minimizing or removing technical impediments to the interoperability of government-owned and/or commercially-provided telecommunications systems;

(4) Test and exercise programs and procedures for the evaluation of the capability of the Nation's telecommunications resources to meet national security or emergency preparedness telecommunications requirements; and

(5) Alternative mechanisms for funding, through the budget review process, national security or emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities. Those mechanisms recommended by the NCS Committee of Principals and the Executive Agent shall be submitted to the Director of the Office of Management and Budget.

The Manager shall also:

(1) Implement and administer any approved plans or programs as assigned, including any system of priorities and preferences for the provision of communications service, in consultation with the NCS Committee of Principals and the Federal Communications Commission, to the extent practicable or otherwise required by law or regulation;

(2) Chair the NCS Committee of Principals and provide staff support and technical assistance thereto;

(3) Serve as a focal point for joint industry-government planning, including the dissemination of technical information, concerning the national security or emergency preparedness telecommunications requirements of the Federal government;

(4) Conduct technical studies or analyses, and examine research and development programs, for the purpose of identifying, for consideration by the NCS Committee of Principals and the Executive Agent, improved approaches which may assist Federal entities in fulfilling national security or emergency preparedness telecommunications objectives;

(5) Pursuant to the Federal Standardization Program of the General Services Administration, and in consultation with other appropriate entities of the Federal government including the NCS Committee of Principals, manage the Federal Telecommunications Standards Program, ensuring wherever feasible that existing or evolving industry, national, and international standards are used as the basis for Federal telecommunications standards; and

(6) Provide such reports and perform such other duties as are from time to time assigned by the President or his authorized designee, the Executive Agent, or the NCS Committee of Principals. Any such assignments of responsibility to, or reports made by, the Manager shall be transmitted through the Executive Agent.

In accordance with section 1(e)(1) of Executive Order 12472 of April 3, 1984, as amended by section 46 of Executive Order 13286 of February 28, 2003, and as the designated Executive Agent for the National Communications System, Department of Homeland Security, I designate the position of Assistant Secretary of Homeland Security for Infrastructure Protection in the Information Analysis and Infrastructure Protection Directorate, as the Manager of the National Communications System.

Dated: October 24, 2003.

**Tom Ridge,**

*Secretary of Homeland Security.*

[FR Doc. 03–27550 Filed 10–31–03; 8:45 am]

BILLING CODE 4410–10–P

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## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Citizenship and Immigration Services

### Agency Information Collection Activities: Proposed Collection; Comment Request

**ACTION:** 30-day notice of information collection under review: Application for Advance Permission to Return to Unrelinquished Domicile, form I–191.

The Department of Homeland Security, Bureau of Citizenship and Immigration Services (BCIS), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on June 4, 2003 at 68 FR 33511, allowing for a 60-day public comment period. No comments were received by the BCIS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 3, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Homeland Security Desk Officer, Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Advance Permission to Return to Unrelinquished Domicile.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–191, Bureau of Citizenship and Immigration Services, Department of Homeland Security.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected on this form will be used by the Bureau of Citizenship and Immigration Services to determine whether the applicant is eligible for discretionary relief under section 212(c) of the Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 300 responses at 15 minutes (.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 75 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, U.S. Department of Homeland Security, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Ms. Yvonne Pollard, Clearance Officer, U.S. Department of Homeland Security, Regional Office Building 3, 7th and D Streets, SW., Suite 4636–26, Washington, DC 20202.

Dated: October 28, 2003.

**Richard A. Sloan,**

*Department Clearance Officer, U.S. Department of Homeland Security, Bureau of Citizenship and Immigration Services.*

[FR Doc. 03–27565 Filed 10–31–03; 8:45 am]

**BILLING CODE 4410–10–M**

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## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Citizenship and Immigration Services

### Agency Information Collection Activities: Proposed Collection; Comment Request

**ACTION:** 30-day notice of information collection under review: Affidavit of Support; Form 1–134.

The Department of Homeland Security (DHS) and the Bureau of Citizenship and Immigration Services (BCIS), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on June 4, 2003 at 68 FR 33511, allowing for a 60-day public comment period. No comments were received by the BCIS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 3, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Homeland Security Desk Officer, 725–17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriated 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 currently approved collection.

(2) *Title of the Form/Collection:* Affidavit of Support.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–134, Bureau of Citizenship and Immigration Services, Department of Homeland Security.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected by this form is used to determine whether the applicant for the benefit will become a public charge is admitted to the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 44,000 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 22,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, U.S. Department of Homeland Security, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Ms. Yvonne Pollard, Clearance Officer, U.S. Department of Homeland Security, Regional Office Building 3, 7th and D Street, SW., Suite 4636–26, Washington, DC 20202.

Dated: October 28, 2003.

**Richard A. Sloan,**

*Department Clearance Officer, U.S. Department of Homeland Security, Bureau of Citizenship and Immigration Services.*

[FR Doc. 03–27566 Filed 10–31–03; 8:45 am]

BILLING CODE 4410–10–M

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Citizenship and Immigration Service

### Agency Information Collection Activities: Proposed Collection; Comment Request

**ACTION:** 30-day notice of information collection under review: Application for Waiver of Ground of Excludability; Form I–601.

The Department of Homeland Security (DHS), Bureau of Citizenship and Immigration Services (BCIS), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on July 3, 2003 at 68 FR 39957, allowing for a 60-day public comment period. No comments were received by the BCIS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 3, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: DHS Desk Officer, Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Waiver of Ground of Excludability.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–601, Bureau of Citizenship and Immigration Services, Department of Homeland Security.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected on this form will be used by the Immigration and Naturalization Service to determine whether the applicant is eligible for a waiver of excludability under section 212 of the Immigration and Nationality act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 3,000 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,500 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, U.S. Department of Homeland Security, Room 4304 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Ms. Yvonne Pollard, Clearance Officer, U.S. Department of Homeland Security, Regional Office Building 3, 7th and D Streets, SW., Suite 4636–26, Washington, DC 20202.

Dated: October 28, 2003.

**Richard A. Sloan,**

*Department Clearance Officer, U.S. Department of Homeland Security, Bureau of Citizenship and Immigration Services.*

[FR Doc. 03–27567 Filed 10–31–03; 8:45 am]

BILLING CODE 4410–10–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4800–FA–9D]**

### Announcement of Funding Awards for Fiscal Year 2003 Alaska Native/Native Hawaiian Institutions Assisting Communities Program

**AGENCY:** Office of the Assistant Secretary for Policy Development and Research, HUD.

**ACTION:** Announcement of funding awards.

**SUMMARY:** In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 2003 Alaska Native/Native Hawaiian Institutions Assisting Communities Program. The purpose of this document is to announce the names, addresses and the amount awarded to the winners to be used to assist Alaska Native/Native Hawaiian institutions of higher education to expand their role and effectiveness in addressing communities in their localities, consistent with the purpose of Title I of the Housing and Community Development Act of 1974, as amended.

**FOR FURTHER INFORMATION CONTACT:** Susan Brunson, Office of University Partnerships, U.S. Department of Housing and Urban Development, Room 8106, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–3061, ext. 3852. To provide service for persons who are hearing or speech impaired, this number may be reached via TTY by Dialing the Federal Information Relay Service on 800–877–8339 or 202–708–1455. (Telephone number, other than ''800'' TTY numbers are not toll free).

**SUPPLEMENTARY INFORMATION:** The Alaska Native/Native Hawaiian Institutions Assisting Communities Program was approved by Congress under section 107 of the Community Development Block Grant appropriations for the Fiscal Year 2003, and is administered by the Office of University Partnerships under the Office of the Assistant Secretary for Policy Development and Research. In addition to this program, the Office of University

Partnerships administers HUD's ongoing grant programs to institutions of higher education as well as creates initiatives through which colleges and universities can bring their traditional missions of teaching, research, service, and outreach to bear on the pressing local problems in their communities.

The AN/NHIAC program provides funds for a wide range of CDBG-eligible activities including housing rehabilitation and financing, property demolition or acquisition, public facilities, economic development, business entrepreneurship, and fair housing programs. Of the $6.981 million available, $3.4 million was allotted to fund Alaskan Hawaiian institutions and $3.4 million to fund Native Hawaiian institutions. Each eligible campus was permitted to apply individually, for $800,000 the maximum amount that can be awarded for a period of 36 months.

The Catalog of Federal Domestic Assistance number for this program is 14.515.

On April 25, 2003 (68 FR 21121), HUD published a Notice of Funding Availability (NOFA) announcing the availability of $6.981 million in Fiscal Year 2003 for the AN/NHIAC Program. The Department reviewed, evaluated, and scored the applications received based on the criteria in the NOFA. As a result, HUD has funded the applications below, in accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing details concerning the recipients of funding awards, as set forth below.

**List of Awardees for Grant Assistance Under the FY 2003 Alaska Native/ Native Hawaiian Instituituions Assisting Commuinities Program Funding Competition, by Institution, Address and Grant Amount**

*Pacific/Hawaii*

1. Chaminade University of Honolulu, Dr. Henery H. Gomes, Chaminade University of Honolulu, Office of the Provost, 3140 Waialae Avenue, Honolulu, HI 96816. Grant: $799,297.

*Northwest/Alaska*

2. University of Alaska Fairbanks, Dr. Margaret Woods, Northwest Campus, University of Alaska Fairbanks, Pouch 400, Nome, AK, 99762. Grant: $799,820.

3. University of Alaska Fairbanks, Dr. Deborah McLean-Nelson, Bristol Bay, University of Alaska Fairbanks, P. O. Box 1070, Dillingham, AK, 99576. Grant: $800,000.

4. University of Alaska Fairbanks, Bob Medinger, Kuskookwim Campus, University of Alaska Fairbanks, P.O. Box 368, Bethel, AK, 99559. Grant: $798,598.

5. Ilisagvik College, Karen E. Stretch, Ilisagvik College, P.O. Box 749, Barrow, AK, 99723. Grant: $799,724.

Dated: October 17, 2003.

**Darlene F. Williams,**

*General Deputy Assistant Secretary for Policy Development and Research.*

[FR Doc. 03–27530 Filed 10–31–03; 8:45 am]

BILLING CODE 4210–62–P

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4800–FA–9C]**

## Announcement of Funding Awards for Fiscal Year 2003; Hispanic-Serving Institutions Assisting Communities Program

**AGENCY:** Office of the Assistant Secretary for Policy Development and Research, HUD.

**ACTION:** Announcement of funding awards.

**SUMMARY:** In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 2003 Hispanic-Serving Institutions Assisting Communities Program (HSIAC). The purpose of this document is to announce the names, addresses and the amount awarded to the winners to be used to help Hispanic-Serving Institutions of Higher Education to expand their role and effectiveness in addressing community development needs in their localities, consistent with the purposes of HUD's Community Development Block Grant program (CDBG).

**FOR FURTHER INFORMATION CONTACT:** Susan Brunson, Office of University Partnerships, U.S. Department of Housing and Urban Development, Room 8106, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–3061, ext. 3852. To provide service for persons who are hearing or speech impaired, this number may be reached via TTY by Dialing the Federal Information Relay Service on 800–877–8339 or 202–708–1455. (Telephone number, other than ''800'' TTY numbers are not toll free).

**SUPPLEMENTARY INFORMATION:** The Hispanic-Serving Institutions Assisting Communities Program was approved by Congress under section 107 of the Community Development Block Grant appropriations for the Fiscal Year 2003, and is administered by the Office of University Partnerships under the Assistant Secretary for Policy Development and Research. In addition to this program, the Office of University Partnerships administers HUD's ongoing grant programs to institutions of higher education as well as creates initiatives through which colleges and universities can bring their traditional missions of teaching, research, service, and outreach to bear on the pressing local problems in their communities.

The HSIAC program provides funds for a wide range of CDBG-eligible activities including housing rehabilitation and financing, property demolition or acquisition, public facilities, economic development, business entrepreneurship, and fair housing programs.

The Catalog Federal Domestic Assistance number for this program is 14.514.

On April 25, 2003, (68 FR 21116), HUD published a Notice of Funding Availability (NOFA) announcing the availability of $7.04 million in Fiscal Year 2003 for the HSIAC Program. The Department reviewed, evaluated, and scored the applications received based on the criteria in the NOFA. As a result, HUD has funded the applications below, in accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing details concerning the recipients of funding awards, as set forth below.

**List of Awardees for Grant Assistance Under the FY 2003 Hispanic-Serving Institutions Assisting Communities Program Funding Competition, by Institution, Address and Grant Amount**

*New York/New Jersey*

1. Lehman College, Ms. Eleanor Lundeen, Lehman College, 250 Bedford Park Blvd., Bronx, NY 10468. Grant: $600,000.

*Southeast/Caribbean*

2. Universidad Metropolitana, Dr. Zaida Vega Lugo, Universidad Metropolitana, P.O. Box 21150, San Juan, PR 00928. Grant: $554,884.

*Southwest*

3. San Antonio College, Mary Helen Vera, Ph.D., Women's Center, 1300 San Pedro Avenue, San Antonio, TX 78212. Grant: $594,763.

4. The University of Texas Pan American, Mr. Pedro Salazar, The University of Texas Pan American, 1201 W University Drive, Edinburg, TX 78539. Grant: $600,000.

5. St. Phillips College, Federico Zaragoza, Ph.D., St. Phillips College,

1801 Martin Luther King, San Antonio, TX 78203. Grant: $600,000.

6. San Jacinto College, Mr. James Matlock III, San Jacinto College, 4624 Fairmount Parkway, Pasadena, TX 77504. Grant: $597,986.

7. Midland College, Mr. Alfredo Chaparro, Midland College, 3600 North Garfield, Midland, TX 79705. Grant: $600,000.

*Pacific/Hawaii*

8. Long Beach Community College District, Ms. Yvonne Gonzalez Duncan, Long Beach Community College, 4901 E. Carson Street, Long Beach, CA 90808. Grant: $600,000.

9. San Diego State University, Ms. Suzanna Fuentes-Ferreiro, San Diego State University, 720 Heber Avenue, Calexico, CA 92231. Grant: $600,000.

10. Bakersfield College, Mr. Ken Meier, Bakersfield College, 1801 Panorama Drive, Bakersfield, CA 93305. Grant: $499,975.

11. California State University-Bakersfield, Dr. Janice Chavez, California State University-Bakersfield, 9001 Stockdale Highway, Bakersfield, CA 93311. Grant: $600,000.

*Northwest/Alaska*

12. Heritage College, Ms. Mary Alice Muellerleile, Heritage College, 3240 Fort Road, Toppenish, WA 98948. Grant: $598,380.

Dated: October 17, 2003.

**Darlene F. Williams,**

*General Deputy Assistant Secretary for Policy Development and Research.*

[FR Doc. 03–27529 Filed 10–31–03; 8:45 am]

**BILLING CODE 4210–62–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4800–FA–9B]**

## Announcement of Funding Awards for Fiscal Year 2003; Historically Black Colleges and Universities Program

**AGENCY:** Office of the Assistant Secretary for Policy Development and Research, HUD.

**ACTION:** Announcement of funding awards.

**SUMMARY:** In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 2003 Historically Black Colleges and Universities Program. The purpose of this document is to announce the names, addresses and the amount awarded to the winners to be used to help Historically Black Colleges and Universities (HBCUs) expand their role and effectiveness in addressing community development needs in their localities, consistent with the purposes of HUD's Community Development Block Grant program (CDBG).

**FOR FURTHER INFORMATION CONTACT:** Susan Brunson, Office of University Partnerships, U.S. Department of Housing and Urban Development, Room 8106, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–3061, ext. 3852. To provide service for persons who are hearing or speech impaired, this number may be reached via TTY by Dialing the Federal Information Relay Service on 800–877–8339 or 202–708–1455. (Telephone number, other than ''800'' TTY numbers are not toll free).

**SUPPLEMENTARY INFORMATION:** The Historically Black Colleges and Universities Program was enacted under section 107 of the CDBG appropriation for Fiscal Year 2003, as part of the ''Veterans Administration, HUD and Independent Agencies Appropriations Act of 2003'' and is administered by the Office of University Partnerships under the Assistant Secretary for Policy Development and Research. In addition to this program, the Office of University Partnerships administers HUD's ongoing grant programs to institutions of higher education as well as creates initiatives through which colleges and universities can bring their traditional missions of teaching, research, service, and outreach to bear on the pressing local problems in their communities.

The HBCU Program provides funds for a wide range of CDBG-eligible activities including housing rehabilitation and financing, property demolition or acquisition, public facilities, economic development, business entrepreneurship, and fair housing programs.

The Catalog Federal Domestic Assistance number for this program is 14.237.

On April 25, 2003, (68 FR 21111), HUD published a Notice of Funding Availability (NOFA) announcing the availability of $9.935 million ($2million of these funds are earmarked to provide technical assistances) in Fiscal Year 2003 for the HBCU Program. Of this amount, $1.4 million was available to HBCU applicants that had not been funded in the past (the maximum amount an applicant can be awarded is $340,000) and $6.6 million was available to fund HBCU applicants that had been previously funded (applicant could request $340,000 to $550,000). The Department reviewed, evaluated, and scored the applications received based on the criteria in the NOFA. As a result, HUD has funded the applications below, in accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing details concerning the recipients of funding awards, as set forth below.

### List of Awardees for Grant Assistance Under the FY 2003 Historically Black Program Funding Competition, by Institution, Address, and Grant Amount

*Mid-Atlantic*

1. Howard University, Dr. Arthur S. Paul, Howard University, 600 West Street, NW., Washington, DC 20001. Grant: $550,000.

*Southeast/Caribbean*

2. LeMoyne-Owen College, Mr. Jeffrey Higgs, LeMoyne-Owen College, 802 Walker Avenue, Suite 5, Memphis, TN 38126. Grant: $550.00.

3. Florida Agricultural and Mechanical University, Dr. Patricia W. McGill, Florida Agricultural and Mechanical University, 400 Foote Hilyer, Administration Center, Tallahassee, FL 32307. Grant: $550,000.

4. Johnson C. Smith University, Mr. Steven K. Washington, Johnson C. Smith University, 100 Beatties Ford Road, Charlotte, NC 28216. Grant: $531,651.

5. Winston-Salem State University, Ms. Valerie Howard, Winston-Salem State University, 601 North Martin Luther King Jr. Drive, Winston-Salem, NC 27110. Grant: $550,000.

6. Barber-Scotia College, Ms. Joann Graham, Barber-Scotia College, 145 Cabarrus Avenue, West, Concord, NC 28025. Grant: $ 550,000.

7. Lawson State Community College, Dr. Eva Carter, Lawson State Community College, 3060 Wilson Road, SW, Birmingham, AL 35221. Grant: $550,000.

8. Claflin University, Mr. Leon Brunson, Claflin University, 400 Magnolia Street, Orangeburg, SC 29115. Grant: $550,000.

9. Voorhees College, Mr. William B. Owens, Voorhees College, P.O. Box 678, Denmark, SC 29042. Grant: $500,321.

10. Tuskegee University, Ms. Leslie V. Porter, Tuskegee University, Kresge Center, Tuskegee, AL 36088. Grant: $550,000.

11. University of the Virgin Islands, Ms. Ilene Garner, University of the Virgin Islands, #2 Brewers Bay, St. Thomas, VI 00803. Grant: $541,000.

12. Lane College, Dr. Wesley Cornelious McClure, Lane College, 545

Lane Avenue, Jackson, TN 38301. Grant: $340,000.

*Southwest*

13. Southern University at New Orleans, Dr. Leetta Allen-Hayes, Southern University at New Orleans, 6400 Press Drive, New Orleans, LA 70126. Grant: $550,000.

14. Texas Southern University, Ms. Ella M. Nunn, Texas Southern University, 3100 Cleburne Avenue, Houston, TX 77004. Grant: $550,000.

Dated: October 17, 2003.

**Darlene F. Williams,**

*General Deputy Assistant Secretary for Policy Development and Research.*

[FR Doc. 03–27528 Filed 10–31–03; 8:45 am]

BILLING CODE 4210–62–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4800–FA–9E]**

## Announcement of Funding Awards for Fiscal Year 2003; Tribal Colleges and Universities Program

**AGENCY:** Office of the Assistant Secretary for Policy Development and Research, HUD.

**ACTION:** Announcement of funding awards.

**SUMMARY:** In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 2003 Tribal Colleges and Universities Program. The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards which are to be used to enable tribal colleges and universities to build, expand, renovate, and equip their own facilities, especially those that are available to and used by the larger community.

**FOR FURTHER INFORMATION CONTACT:** Susan Brunson, Office of University Partnerships, Department of Housing and Urban Development, Room 8106, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–3061, ext. 3852. To provide service for persons who are hearing or speech impaired, this number may be reached via TTY by Dialing the Federal Information Relay Service on 800–877–8339 or 202–708–1455 (Telephone number, other than ''800'' TTY numbers are not toll free).

**SUPPLEMENTARY INFORMATION:** The Tribal Colleges and Universities Program was enacted under section 107 of the CDBG appropriation for Fiscal Year 2003, as part of the ''Veterans Administration, HUD and Independent Agencies Appropriations Act of 2003'' and is administered by the Office of University Partnerships under the Office of the Assistant Secretary for Policy Development and Research. In addition to this program, the Office of University Partnerships administers HUD's ongoing grant programs to institutions of higher education as well as creates initiatives through which colleges and universities can bring their traditional missions of teaching, research, service, and outreach to bear on the pressing local problems in their communities.

The Tribal Colleges and Universities Program assist tribal colleges and universities to build, expand, renovate, and equip their own facilities. On April 25, 2003 (68 FR 21126), HUD published a Notice of Funding Availability (NOFA) announcing the availability of $3.1 million in Fiscal Year 2003 funds for the Tribal Colleges and Universities Program. The Department reviewed, evaluated and scored the applications received based on the criteria in the NOFA. As a result, HUD funded eight applications.

The Catalog Federal Domestic Assistance number for this program is 14.519.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing details concerning the recipients of funding awards, as follows.

**List of Awardees for Grant Assistance Under the FY 2003 Tribal Colleges and Universities Program Funding Competition, by Institution, Address, and Grant Amount**

*Rocky Mountains*

1. Salish Kootenai College, Dr. Joseph McDonald, Salish Kootenai College, P.O. Box 117, Pablo, MT 59855. Grant: $384,552.

2. United Tribes Technical College, Russell Swagger, United Tribes Technical College, 3315 University Drive, Bismarck, ND, 58504. Grant: $400,000.

3. Sinte Gleska University, Dr. Georgia Hackett, Sinte Gleska University, Rosebud Sioux Reservation, 150 East 2nd Street, Mission, SD, 57555. Grant: $400,000.

4. Chief Dull Knife College, Bill Wertman, Chief Dull Knife College, P.O. Box 98, Lame Deer, MT, 59043. Grant: $400,000.

5. Turtle Mountain Community College, Dr. Gerald E. Monette, Turtle Mountain Community College, P.O. Box 340, Belcourt, ND 58136. Grant: $400,000.

6. Blackfeet Community College, Dr. Terrance E. Whitright, Blackfeet Community College, P.O. Box 819, Browing, MT, 59417. Grant: $390,500.

7. Oglala Lakota College, Dr. Thomas Shorthull, Oglala Lakota College, 490 Piya Wiconi Road, Kyle, SD, 57752. Grant: $400,000.

*Midwest*

8. Leech Lake Tribal College, Lenee Ross, Leech Lake Tribal College, 113 Balsam Avenue, NW, P.O. Box 180, Cass Lake, MT, 56633. Grant: $400,000.

Dated: October 17, 2003.

**Darlene F. Williams,**

*General Deputy Assistant Secretary for Policy Development and Research.*

[FR Doc. 03–27531 Filed 10–31–03; 8:45 am]

BILLING CODE 4210–62–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

## Endangered and Threatened Species Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of applications.

**SUMMARY:** The following applicants have applied for scientific research permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended.

**DATES:** To ensure consideration, written comments must be received on or before December 3, 2003.

**ADDRESSES:** Written comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act. Documents will be available for public inspection, by appointment only, during normal business hours at the U.S. Fish and Wildlife Service, 500 Gold Avenue SW., Room 4102, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

**FOR FURTHER INFORMATION CONTACT:** Chief, Endangered Species Division, (505) 248–6920.

**SUPPLEMENTARY INFORMATION:**

**Permit No. TE–834782**

*Applicant:* WestLand Resources, Inc., Tucson, Arizona

Applicant requests an amendment to an existing permit to allow presence/absence surveys for Yuma clapper rail (*Rallus longirostris yumanensis*) within Arizona.

**Permit No. TE–077699**

*Applicant:* Charles H. Lewis, Phoenix, Arizona

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) within Arizona.

**Permit No. TE–076050**

*Applicant:* McAlester Army Ammunition Plant, McAlester, Oklahoma

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for the American burying beetle (*Nicrophorus americanus*) within Oklahoma.

**Permit No. TE–078070**

*Applicant:* University of Arizona, Environmental Research Laboratory, Tucson, Arizona

Applicant requests a new permit for research and recovery purposes to receive bonytail chub (*Gila elegans*) and Apache trout (*Oncorhynchus apache*), in order to assess the effects of water quality on the endocrine system function of these species.

**Permit No. TE–078189**

*Applicant:* Adkins Consulting, Farmington, New Mexico

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for the following species within New Mexico: black-footed ferret (*Mustela nigripes*), southwestern willow flycatcher (*Empidonax traillii extimus*), Knowlton cactus (*Pediocactus knowltonii*), and Mancos milk-vetch (*Astragalus humillimus*).

**Permit No. TE–078127**

*Applicant:* The Dallas World Aquarium Corporation, Dallas, Texas

Applicant requests a new permit for research and recovery purposes to allow education display of the hawksbill sea turtle (*Eretmochelys imbricata*) and Kemp's ridley sea turtle (*Lepidochelys kempii*).

**Permit No. TE–078304**

*Applicant:* Terri L. Symonds, Dallas, Texas

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for the following species where they occur within Arizona, California, New Mexico, and Texas: black-capped vireo (*Vireo atricapilla*), cactus ferruginous pygmy owl (*Glaucidium brasilianum cactorum*), golden-cheeked warbler (*Dendroica chrysoparia*), least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*), and Yuma clapper rail (*Rallus longirostris yumanensis*).

**Permit No. TE–078347**

*Applicant:* U.S. Fish and Wildlife Service, Ajo, Arizona

Applicant requests a permit for individuals to possess, capture, administer health care, introduce, manage, monitor, maintain, and breed Sonoran pronghorn (*Antilocapra americana sonoriensis*) within the Semi-Captive Breeding Facility located on the Cabeza Prieta National Wildlife Refuge.

**Authority:** 16 U.S.C. 1531, *et seq.*

Dated: October 14, 2003.

**Bryan Arroyo,**

*Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.*

[FR Doc. 03–27546 Filed 10–31–03; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Southern Idaho Ground Squirrel Programmatic Candidate Conservation Agreement With Assurances

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of intent.

**SUMMARY:** Pursuant to the National Environmental Policy Act, this notice advises the public that the U.S. Fish and Wildlife Service (Service), in cooperation with the Idaho Department of Fish and Game (IDFG) and the Idaho Governor's Office of Species Conservation, intends to gather information necessary to prepare an environmental document (environmental assessment and/or environmental impact statement) regarding a proposed Southern Idaho Ground Squirrel Programmatic Candidate Conservation Agreement with Assurances (CCAA) and enhancement of survival permit under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA). The IDFG is the proposed permit applicant.

The Service is furnishing this notice in order to: (1) Advise other Federal and State agencies, affected tribes, and the public of our intentions; (2) announce the initiation of a 21-day public scoping period; and (3) to obtain suggestions and information on the scope of issues to be addressed in the environmental document.

**DATES:** Written comments from all interested parties must be received on or before November 24, 2003.

**ADDRESSES:** Comments should be addressed to Carmen Thomas, Project Biologist, U.S. Fish and Wildlife Service, 1387 S. Vinnell Way, Room 368, Boise, Idaho 83709; facsimile: (208) 378–5262.

**FOR FURTHER INFORMATION CONTACT:** Carmen Thomas at the above address or telephone: (208) 378–5243.

**SUPPLEMENTARY INFORMATION:** Candidate Conservation Agreements with Assurances contain a strategy for covered lands and activities that constitute an applicant's contribution to avoid listing or remove the need to list a covered species as threatened or endangered under the ESA. In return, an applicant receives assurances that it will not be required to provide additional conservation measures if any of the covered species become listed under the ESA in the future.

The proposed CCAA planning document would cover approximately 1,000,000 acres in Adams, Washington, Payette, and Gem Counties, Idaho; within this area, individual non-Federal landowners could voluntarily enroll lands under the proposed CCAA. It is unknown how many landowners would participate and enroll lands under the CCAA, however, we expect the acreage of enrolled lands to be substantially less than 1,000,000 acres.

The primary goal of the proposed CCAA would be to implement habitat and population conservation measures on non-Federal lands enrolled under the CCAA for the southern Idaho ground squirrel (*Spermophilus brunneus endemicus*). Habitat conservation measures would focus on restoration or protection of native plant communities, including shrub/steppe habitat, or other habitat management measures to benefit this species. Other conservation measures could include: minimization of impacts from land use activities in southern Idaho ground squirrel-occupied habitat to conserve ground squirrel populations; prohibition of shooting, trapping, and poisoning of

southern Idaho ground squirrels; reintroduction of southern Idaho ground squirrels into unoccupied suitable habitat; and authorization for Service and IDFG personnel to access enrolled lands for purposes of monitoring southern Idaho ground squirrel populations and habitat. Potential covered activities include: crop cultivation and harvesting, livestock grazing and production, farm equipment operation, and recreational activities (*e.g.*, hunting, fishing, camping, dog training, and use of recreational vehicles on and off established roads).

The Service will conduct an environmental review of the proposed CCAA and prepare an environmental document. The review will analyze the CCAA, as well as a full range of reasonable alternatives, and the associated impacts of each. Should information become available that indicates significant environmental impacts from the proposed CCAA, an Environmental Impact Statement will be prepared. Comments and suggestions are invited from all interested parties to ensure the full range of issues related to this proposed action are identified. Comments or questions should be addressed to the Service at the address or telephone number provided above. *See* **ADDRESSES** *and* **FOR FURTHER INFORMATION CONTACT**.

The environmental review of this proposed project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), National Environmental Policy Act Regulations (40 CFR parts 1500–1508), other applicable Federal laws and regulations, and policies and procedures of the Service for compliance with those regulations.

Dated: October 23, 2003.

**William F. Shake,**

*Deputy Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon.*

[FR Doc. 03–27547 Filed 10–31–03; 8:45 am]

**BILLING CODE 4310–55–P**

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Notice of Meeting of the Trinity Adaptive Management Working Group

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Trinity Adaptive Management Working Group (TAMWG). The TAMWG affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River restoration efforts to the Trinity Management Council. Primary objectives of the meeting will include: 2004 budget update, TAMWG's operations and procedures, Director's report, update strategic plan and science framework, watershed restoration and other subcommittee reports, fish return report, Cableway gravel introduction project, review and recommendation of watershed and tributary restoration element for Trinity River Mainstem Fishery Restoration SEIS/EIR, and update on possible litigation settlement. The agenda items are approximate and are dependent on the amount of time each item takes. The meeting could end early if the agenda has been completed. The meeting is open to the public.

**DATES:** The Trinity Adaptive Management Working Group will meet from 10 a.m. to 5 p.m. on Monday, December 8, 2003.

**ADDRESSES:** The meeting will be held at the Weaverville Victorian Inn, 1709 Main Street, Weaverville, California 96093. The phone number is (530) 623–4432.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary Ellen Mueller of the U.S. Fish and Wildlife Service, California/Nevada Operations Office, 2800 Cottage Way, W–2606, Sacramento, California 95825, (916) 414–6464. Dr. Mary Ellen Mueller is the designee of the committee's Federal Official—Steve Thompson, Manager of the U.S. Fish and Wildlife Service, California/Nevada Operations Office.

**SUPPLEMENTARY INFORMATION:** For background information and questions regarding the Trinity River Restoration Program, please contact Douglas Schleusner, Executive Director, Trinity River Restoration Program, P.O. Box 1300, 1313 South Main Street, Weaverville, California 96093, (530) 623–1800.

Dated: October 27, 2003.

**D. Kenneth McDermond,**

*Acting Manager, California/Nevada Operations Office, Sacramento, CA.*

[FR Doc. 03–27545 Filed 10–31–03; 8:45 am]

**BILLING CODE 4310–55–P**

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[OR–030–1020–XX: G 04–0019]**

### Resource Advisory Council Meeting

**AGENCY:** Bureau of Land Management (BLM), Vale District, Interior.

**ACTION:** Meeting notice for the John Day/Snake Resource Advisory Council.

**SUMMARY:** The John Day/Snake Resource Advisory Council will meet in the Tamastslikt Cultural Institute's Multi Purpose Theater, at the Wildhorse Resort & Casino, 7277 Highway 331, Pendleton, OR 97801 8 a.m. to 4 p.m., (Pacific Time PT) on Tuesday, December 2, 2003.

The meeting may include such topics as Program of Work, Wild Horse and Burro issues, Sagegrouse Subcommittee Report, and other matters as may reasonably come before the Board. The entire meeting is open to the public. For a copy of the information to be distributed to the Board members, please submit a written request to the Vale District Office 10 days prior to the meeting. Public comment is scheduled for 11 a.m. to 11:15 a.m. PT.

**FOR FURTHER INFORMATION CONTACT:** Additional information concerning the John Day/Snake Resource Advisory Council may be obtained from Peggy Diegan, Management Assistant/Webmaster, Vale District Office, 100 Oregon Street, Vale, OR 97918, (541) 473–6244, or e-mail *Peggy_Diegan@or.blm.gov.*

Dated: October 28, 2003.

**Tom Terry,**

*Assistant District Manager, Field Support.*

[FR Doc. 03–27543 Filed 10–31–03; 8:45 am]

**BILLING CODE 4310–33–P**

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

### Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Notice of extension of an information collection (1010–0143).

**SUMMARY:** To comply with the Paperwork Reduction Act of 1995 (PRA), MMS is notifying the public that it has submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR 260,

''Outer Continental Shelf Oil and Gas Leasing.'' This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

**DATES:** Submit written comments by December 3, 2003.

**ADDRESSES:** You may submit comments either by fax (202) 395–6566 or email (*OIRA_DOCKET@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0143). Mail or hand carry a copy of your comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817. If you wish to email comments to MMS, the address is: *rules.comments@mms.gov.* Reference Information Collection 1010–0143 in your subject line and mark your message for return receipt. Include your name and return address in your message text.

**FOR FURTHER INFORMATION CONTACT:** Arlene Bajusz, Rules Processing Team, telephone (703) 787–1600. You may also contact Arlene Bajusz to obtain a copy, at no cost, of the regulations that require the subject collection of information.

**SUPPLEMENTARY INFORMATION:**

*Title:* 30 CFR 260, Outer Continental Shelf Oil and Gas Leasing.

*OMB Control Number:* 1010–0143.

*Abstract:* The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to administer leasing of the OCS. Section 8(a)(1) of the OCS Lands Act provides authority for the Secretary to offer leases under a variety of bidding systems. The regulations at 30 CFR part 260 describe the bidding systems, joint bidding requirements, and royalty suspensions for certain leases. They encourage leasing competition through the use of appropriate bidding-system alternatives and a joint bidding ban among certain large companies. Also, these regulations implement the Secretary's authority to promote leasing interest in certain areas of the OCS through automatic suspension of royalties. The Minerals Management Service (MMS) administers this program for the Secretary.

Regulations under part 260 require lessees to notify MMS of their intention to begin production. Lessees must also request confirmation of the size of the royalty-suspension volume that applies to the pre-2001 eligible lease. The MMS uses the information collected to make decisions on the shares of the royalty-suspension volume that applies to multiple pre-2001 eligible leases on the same field. The information is used to ensure royalty suspension volume is properly allocated among constituent leases in a field. Respondents may request reconsideration of an assignment of their lease that has a qualifying well to an existing field or to a newly designated field. MMS will use the information to reconsider and adjust, if necessary, the initial field assignment for a lease. These decisions can be contentious because a favorable field assignment can save a lessee tens of millions of dollars in royalties.

*Frequency:* On occasion.

*Estimated Number and Description of Respondents:* Approximately 10 of the 130 Federal OCS oil and gas lessees.

*Estimated Reporting and Recordkeeping ''Hour'' Burden:* The estimated annual ''hour'' burden for this information collection is a total of 1,603 hours. The individual components and their respective hour burden estimates are detailed below. In calculating the burdens, MMS assumed that respondents perform certain requirements in the normal course of their activities. MMS considers these to be usual and customary and took that into account in estimating the burden.

§§ 260.114(a) and 260.124(a)—Request MMS to reconsider the field assignment of a lease (average of 400 hours per request × 4 requests = 1,600 hours).

§ 260.114(c)—Notify MMS of intent to begin production and request confirmation of the size of royalty-suspension volume (½ hour per notice × 6 notices = 3 hours).

Part 260 also refers to various items of information collected under 30 CFR parts 203 and 256. OMB has approved those information collections under OMB Control Numbers 1010–0071 and 1010–0006, respectively.

*Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden:* MMS has identified no non-hour cost burdens for this collection.

*Public Disclosure Statement:* The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

*Comments:* Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *'' Agencies must specifically solicit comments to: (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on June 19, 2003, MMS published a **Federal Register** notice (68 FR 36836) announcing that it would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 260.3 provides the OMB control number for the information collection requirements imposed by the 30 CFR 260 regulations. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. MMS has received no comments in response to these efforts.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by December 3, 2003.

*Public Comment Policy:* MMS's practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. If you wish to withhold your name and/or address, you must state this prominently at the beginning of your comment. MMS will honor the request to the extent allowable by the law. However, anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

*MMS Federal Register Liaison Officer:* Denise Johnson, (202) 208–3976.

Dated: October 1, 2003.

**E.P. Danenberger,**

*Chief, Engineering and Operations Division.*

[FR Doc. 03–27513 Filed 10–31–03; 8:45 am]

BILLING CODE 4310–MR–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Information Collection; Request for Extension

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of request for a currently approved information collection.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the National Park Service (NPS) is announcing its intention to request an extension of a currently approved information collection (OMB Control #1024–0125) under 36 CFR part 51 relating to the submission of offers in response to concession prospectuses issued by the National Park Service (NPS). The collection described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The information request describes the nature of the information collection and the expected burden and cost.

**DATES:** OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, public comments should be submitted to OMB by December 3, 2003, in order to be assured of consideration.

**ADDRESSES:** Send comments to Attention: Desk Officer for the Department of the Interior, OMB Office of Information and Regulatory Affairs, via facsimile at 202/395–6566, or via e-mail at *OIRA_DOCKET@omb.eop.gov.* Also, send a copy of your comments to Cynthia L. Orlando, Concession Program Manager, National Park Service, 1849 C Street, NW. (2410), Washington, DC 20240, or electronically to *cindy_orlando@nps.gov.* All comments will become a matter of public record. Copies of the proposed Information Collection Request can be obtained from Erica Smith-Chavis, National Park Service, 1849 C Street, NW. (2420), Washington, DC 20240.

**SUPPLEMENTARY INFORMATION:**

*Title:* Submission of Offers requirement in response to concession prospectuses—36 CFR 51.

*OMB Control Number:* 1024–0125.

*Expiration Date of Approval:* August 31, 2003.

*Type of Request:* Extension of a currently approved information collection.

*Abstract:* The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 13200.8(d)). NPS has submitted a request to OMB to renew approval of the collection of information in 36 CFR part 51, Concession contracts, relating to the submission of offers in response to prospectuses issued by NPS. NPS is requesting a 3-year term of approval for this information collection activity. 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 number for this collection of information is 1024–1025, and is identified in 36 CFR 51.104.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on May 29, 2003 (65 FR 8735). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

The regulations at 36 CFR part 51 primarily implement Title IV of the National Parks Omnibus Management Act of 1998 (Pub. L. 105–391 or the Act), which provides new legislative authority, policies, and requirements for the solicitation, award, and administration of NPS concession contracts. The regulations require the submission of offers by parties interested in applying for a NPS concession contract. Specific requirements regarding the information that must be submitted by offerors in response to a prospectus issued by NPS are contained in Sections 403(4), (5), (7), and (8) of the Act.

*Bureau Form Number:* None.

*Frequency of Collection:* On occasion.

*Description of Respondents:* Persons or entities seeking a National Park Service concession contract.

*Total Annual Responses:* 240.

*Total Annual Burden Hours:* 76,800.

*Total Non-hour Cost Burden:* $1,120,000.

Send comments on (1) the need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; (4) and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the following address. Please refer to OMB control number 1024–0125 in all correspondence.

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

Dated: August 6, 2003.

**Leonard E. Stowe,**

*Acting NPS Information Collection Clearance Officer.*

[FR Doc. 03–27534 Filed 10–31–03; 8:45 am]

BILLING CODE 4310–70–M

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Cape Cod National Seashore, South Wellfleet, MA; Cape Cod National Seashore Advisory Commission, Two Hundred Forty-Fourth; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. app 1, section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on November 24, 2003.

The Commission was reestablished pursuant to Pub. L. 87–126 as amended by Pub. L. 105–280. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The Commission members will meet at 1 p.m. at Headquarters, Marconi Station, Wellfleet, Massachusetts for the regular business meeting to discuss the following:

1. Adoption of Agenda.
2. Approval of minutes of previous meeting (September 26, 2003).
3. Reports of Officers.
4. Reports of Subcommittees.
5. Superintendent's Report, Salt Pond Visitor Center, Mary Chase Salt Marsh Project, Dune Shack Update, Hunting

Program, Eastham Town Beach, and News from Washington.

6. Old Business, and Invasive Species.
7. New Business.
8. Date and agenda for next meeting.
9. Public comment.
10. Adjournment.

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Dated: October 10, 2003.

**Maria Burks,**

*Superintendent.*

[FR Doc. 03–27521 Filed 10–31–03; 8:45 am]

BILLING CODE 4310–WV–P

## DEPARTMENT OF THE INTERIOR

## National Park Service

## National Capital Region; Christmas Pageant of Peace

**ACTION:** Notice/request for comments—The Christmas Pageant of Peace.

**SUMMARY:** The National Park Service is seeking public comments and suggestions on the planning of the 2003 Christmas Pageant of Peace.

**SUPPLEMENTARY INFORMATION:** The National Park Service is seeking public comments and suggestions on the planning of the 2003 Christmas Pageant of Peace, which opens on December 4, 2003, on the Ellipse (President's Park), south of the White House. The meeting will be held at 1 p.m. on November 13, 2003, in Room 234 of the National Capital Region Headquarters Building, at 1100 Ohio Drive, SW., Washington, DC (East Potomac Park).

Persons who would like to comment at the meeting should notify the National Park Service by November 10, 2003, by calling the White House Visitor Center weekdays between 9 a.m., and 4 p.m., at (202) 208–1631. Written comments may be sent to the Park Manager, White House Visitor Center 1100 Ohio Drive, SW., Washington, DC 20242, and will be accepted until November 10, 2003.

**DATES:** The meeting will be held on November 13, 2003. Written comments will be accepted until November 10, 2003.

**ADDRESSES:** The meeting will be held at 1 p.m. on November 13, 2003, in room 234 of the National Capital Region Headquarters Building, at 1100 Ohio Drive, SW., Washington, DC (East Potomac Park). Written comments may be sent to the Park Manager, White House Visitor Center 1100 Ohio Drive, SW., Washington, DC 20242. Due to delays in mail delivery, it is recommended that comments be provided by telefax at 202–208–1643 or by e-mail at *Rachel_frantum@nps.gov* Comments may also be delivered by messenger to the White House Visitor Center at 1450 Pennsylvania Avenue, NW., in Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Rachel Frantum at the White House Visitor Center weekdays between 9 a.m., and 4 p.m., at (202) 208–1631.

Dated: October 9, 2003.

**Mario Santo,**

*Deputy Director, White House Liaison, National Park Service.*

[FR Doc. 03–27520 Filed 10–31–03; 8:45 am]

BILLING CODE 4310–71–M

## DEPARTMENT OF THE INTERIOR

## National Park Service

## Kaloko-Honokohau National Historical Park Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Na Hoapili O Kaloko Honokohau, Kaloko-Honokohau National Historical Park Advisory Commission will be held at 9 a.m., November 11, 2003, at Kaloko-Honokohau National Historic Park headquarters, 73–4786 Kanalani St. Suite 14, Kailua-Kona, Hawaii.

The agenda will include Commission Membership, Finalization of Park Brochure, Visitor Contact Facility, Alu Like Partnership, Resource and Educational Center, and various park projects.

The meeting is open to the public. Minutes will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. Transcripts will be available after 30 days of the meeting.

For copies of the minutes, contact Kaloko-Honokohau National Historical Park at (808) 329–6881.

Dated: September 30, 2003.

**Geraldine K. Bell,**

*Superintendent, Kaloko-Honokohau National Historical Park.*

[FR Doc. 03–27519 Filed 10–31–03; 8:45 am]

BILLING CODE 4312–GH–M

## DEPARTMENT OF THE INTERIOR

## National Park Service

## Notice of Intent to Repatriate Cultural Items from Molokai, HI in the Possession of the Bernice Pauahi Bishop Museum, Honolulu, HI; Correction

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice; correction.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.8 (f), that, upon publication of this notice in the **Federal Register**, the Bernice Pauahi Bishop Museum, Honolulu, HI, rescinds the notice of intent to repatriate published in the **Federal Register** of April 9, 1999 (FR Doc. 99–8888, page 17410) because the museum has determined that the Kalaina Wawae is not cultural patrimony as defined at 25 U.S.C. 3001 (3)(D).

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations within this notice.

The Kalaina Wawae is three sections of sandstone containing petroglyphs, from an area of Molokai, HI, called Mo'omomi. Kalaina Wawae (feet of Kalaina) is known for its oblong depressions said to represent human footprints.

The April 9, 1999, notice identified the Kalaina Wawae as cultural patrimony as defined at 25 U.S.C. 3001 (3)(D). After further consideration of the Kalaina Wawae, its history, and the conditions under which the Bishop Museum acquired the Kalaina Wawae, museum officials have determined that the Kalaina Wawae was privately owned at the time that the Kalaina Wawae was gifted to the museum, and that the Kalaina Wawae was legally conveyed to the museum. After additional consultation since April 9, 1999, with representatives of Hui Malama O Mo'omomi and Hui Malama I Na Kupuna O Hawaii Nei, museum officials

have determined that the Kalaina Wawae is of great cultural significance but is not cultural patrimony as defined at 25 U.S.C. 3001 (3)(D).

Bernice Pauahi Bishop (1831–1884) was the great-granddaughter of Kamehameha the Great and had the authority to alienate or convey to her estate personal property such as the Kalaina Wawae.

In 1897 Molokai Ranch purchased land at Mo'omomi, Molokai, HI, from the estate of Bernice Pauahi Bishop which included the Kalaina Wawae. In 1909 Molokai Ranch gave the Kalaina Wawae to the Bishop Museum, and J.F.G. Stokes and museum staff carved out and collected the Kalaina Wawae with the permission of the Molokai Ranch manager, George P. Cooke. In 1909 the museum accessioned the Kalaina Wawae (numbers 9935, 9936, and 9937) into its collections.

The Bishop Museum does not intend to repatriate the Kalaina Wawae to the Native Hawaiian organizations that previously presented claims, and rescinds the museum's April 9, 1999, notice. In March 2003 the museum installed the Kalaina Wawae at Mo'omomi, Molokai, HI, to be cared for and used for educational and cultural purposes by the Native Hawaiian community.

Representatives of any Native Hawaiian organization who wish to comment on this notice should address their comments to Dr. Guy Kaulukukui, Vice President of Cultural Studies, Bishop Museum, 1525 Bernice Street, Honolulu, HI 96718–2704, telephone (808) 848–4126.

The Bishop Museum is responsible for notifying Hui Malama I Na Kupuna O Hawai'i Nei, the Office of Hawaiian Affairs, Moloka'i Museum and Culture Center, Lili'uokalani Trust, Alapa'i Hanapi, Lawrence Aki, Walter Ritte, and Hui Malama O Mo'omomi that this notice has been published.

Dated: August 20, 2003.

**John Robbins,**

*Assistant Director, Cultural Resources.*

[FR Doc. 03–27522 Filed 10–31–03; 8:45 am]

**BILLING CODE 4312–50–S**

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Notice of Inventory Completion: Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA. The human remains and associated funerary objects were removed from the Redding Number 1 site (CA-Sha–47), Shasta County, CA, and the Frank Pierce site (CA-Tri–58), Trinity County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

An assessment of the human remains, and catalog records and associated documents relevant to the human remains, was made by Phoebe A. Hearst Museum of Anthropology professional staff in consultation with representatives of the Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California; Cortina Indian Rancheria of Wintun Indians of California; Grindstone Indian Rancheria of Wintun-Wailaki Indians of California; Paskenta Band of Nomlaki Indians of California; Redding Rancheria, California; Round Valley Indian Tribes of the Round Valley Reservation, California; and Rumsey Indian Rancheria of Wintun Indians of California.

In 1935, human remains representing at least six individuals were removed from the Redding Number 1 site (CA-Sha–47), located on the east bank of the Sacramento River, Shasta County, CA, during excavations sponsored by the University of California, Berkeley. No known individuals were identified. The 27 associated funerary objects are 22 shell beads, 2 shell pendants, 2 pieces of baked clay, and 1 piece of ochre.

Based on the presence of chronologically diagnostic artifacts in the burials and in other areas of the site, the Redding Number 1 site is dated to circa A.D. 1600 and later.

In 1957, human remains representing at least two individuals were removed from the Frank Pierce site (CA-Tri–58), on the Trinity River, Trinity County, CA, during excavations carried out by the University of California, Berkeley. No known individuals were identified. The 73 associated funerary objects are 30 obsidian blanks, 22 obsidian flakes, 6 obsidian points, 1 obsidian scraper, 1 glass bead, 5 shell beads, 6 shell blanks, 1 pestle, and 1 bow fragment.

Based on the presence of chronologically diagnostic objects in other parts of the site, and the presence of a glass bead in one of the two burials, the Frank Pierce site is dated to a period postdating European contact.

Occupation of the Redding Number 1 site and the Frank Pierce site postdates the movement of Wintun people into the area at approximately A.D. 1000. Cultural affiliation with Wintun descendants, represented by the Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California; Cortina Indian Rancheria of Wintun Indians of California; Grindstone Indian Rancheria of Wintun-Wailaki Indians of California; Paskenta Band of Nomlaki Indians of California; Redding Rancheria, California; Round Valley Indian Tribes of the Round Valley Reservation, California; and Rumsey Indian Rancheria of Wintun Indians of California is based on linguistic evidence, regional archeological evidence, and oral traditions that include references to local geographical features as part of the mythology.

Officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of at least eight individuals of Native American ancestry. Officials of the Phoebe A. Hearst Museum of Anthropology also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 100 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California; Cortina Indian Rancheria of Wintun Indians of California; Grindstone Indian Rancheria of Wintun-Wailaki Indians of California; Paskenta Band of Nomlaki Indians of California; Redding Rancheria, California; Round Valley Indian Tribes of the Round Valley Reservation, California; and Rumsey Indian

Rancheria of Wintun Indians of California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact C. Richard Hitchcock, NAGPRA Coordinator, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, CA 94720, telephone (510) 642–6096, before December 3, 2003. Repatriation of the human remains and associated funerary objects to the Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California; Cortina Indian Rancheria of Wintun Indians of California; Grindstone Indian Rancheria of Wintun-Wailaki Indians of California; Paskenta Band of Nomlaki Indians of California; Redding Rancheria, California; Round Valley Indian Tribes of the Round Valley Reservation, California; and Rumsey Indian Rancheria of Wintun Indians of California may proceed after that date if no additional claimants come forward.

The Phoebe A. Hearst Museum of Anthropology is responsible for notifying the Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California; Cortina Indian Rancheria of Wintun Indians of California; Grindstone Indian Rancheria of Wintun-Wailaki Indians of California; Paskenta Band of Nomlaki Indians of California; Redding Rancheria, California; Round Valley Indian Tribes of the Round Valley Reservation, California; and Rumsey Indian Rancheria of Wintun Indians of California that this notice has been published.

Dated: September 2, 2003.

**John Robbins,**

*Assistant Director, Cultural Resources.*

[FR Doc. 03–27523 Filed 10–31–03; 8:45 am]

BILLING CODE 4312–50–S

## DEPARTMENT OF THE INTERIOR

## National Park Service

### Notice of Inventory Completion: Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA

**AGENCY:** National Park Service, Interior

**ACTION:** Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA. The human remains and associated funerary objects were removed from site NV-Do-12, Douglas County, NV.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

An assessment of the human remains, and catalog records and associated documents relevant to the human remains, was made by Phoebe A. Hearst Museum of Anthropology professional staff in consultation with representatives of the Reno-Sparks Indian Colony, Nevada; and Washoe Tribe of Nevada and California (Carson Colony, Dresslerville Colony, Woodsford Community, Stewart Community, and Washoe Ranches).

In 1956, human remains representing at least seven individuals were removed from site NV-Do-12, a habitation site located between Carson City and Genoa, Douglas County, NV. No known individuals were identified. The three associated funerary objects are three obsidian projectile point fragments.

Based on the presence of chronologically diagnostic artifacts in other areas of the site, site NV-Do-12 is dated to circa 1000 B.C. and later. The occupation of the site postdates the movement of Washoe people into this area of Nevada.

Cultural affiliation of the human remains with Washoe descendants, represented by the Reno-Sparks Indian Colony, Nevada; and Washoe Tribe of Nevada and California (Carson Colony, Dresslerville Colony, Woodsford Community, Stewart Community, and Washoe Ranches), is based on oral traditions that place Washoe ancestors in the region ''since the beginning,'' linguistic evidence, and regional archeological evidence.

Officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of at least seven individuals of Native American ancestry. Officials of the Phoebe A. Hearst Museum of Anthropology also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the three objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Reno-Sparks Indian Colony, Nevada; and Washoe Tribe of Nevada and California (Carson Colony, Dresslerville Colony, Woodsford Community, Stewart Community, and Washoe Ranches).

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact C. Richard Hitchcock, NAGPRA Coordinator, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA 94720, telephone (510) 642–6096, before December 3, 2003. Repatriation of the human remains and associated funerary objects to the Reno-Sparks Indian Colony, Nevada; and Washoe Tribe of Nevada and California (Carson Colony, Dresslerville Colony, Woodsford Community, Stewart Community, and Washoe Ranches) may proceed after that date if no additional claimants come forward.

The Phoebe A. Hearst Museum of Anthropology is responsible for notifying the Reno-Sparks Indian Colony, Nevada; and Washoe Tribe of Nevada and California (Carson Colony, Dresslerville Colony, Woodsford Community, Stewart Community, and Washoe Ranches) that this notice has been published.

Dated: August 27, 2003.

**John Robbins,**

*Assistant Director, Cultural Resources.*

[FR Doc. 03–27524 Filed 10–31–03; 8:45 am]

BILLING CODE 4312–50–S

## DEPARTMENT OF THE INTERIOR

## National Park Service

### Notice of Intent to Repatriate a Cultural Item: Thomas Burke Memorial Washington State Museum, Seattle, WA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item in the

possession of the Thomas Burke Memorial Washington State Museum, Seattle, WA, that meets the definition of sacred object under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural item. The National Park Service is not responsible for the determinations within this notice.

The one cultural item (catalog number 2–11783) is a man's buckskin perforated shirt decorated with beadwork that was collected on the Spokane Indian Reservation by University of Washington faculty anthropologist Verne Ray in 1928. It was purchased by the Thomas Burke Memorial Washington State Museum in 1930 and accessioned as number 2346. Dr. Ray's notes indicate that the shirt was made by an unnamed member of the Spokane Tribe of the Spokane Reservation, Washington and was worn by a member of the tribe residing on the Spokane Indian Reservation. Shirts of this type are part of a religious system involving the acquisition of guardian spirit powers. Consultation with religious leaders and representatives of the Spokane Tribe of the Spokane Reservation, Washington indicates that the shirt has ongoing religious importance and that the shirt is a ceremonial object essential for the continuation of traditional religious practices in the tribe.

Officials of the Thomas Burke Memorial Washington State Museum have determined, pursuant to 25 U.S.C. 3001, that the cultural item is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Thomas Burke Memorial Washington State Museum also have determined that there is a relationship of shared group identity that can be reasonably traced between the sacred object and the Spokane Tribe of the Spokane Reservation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the sacred object should contact Dr. James D. Nason, Chairman, Repatriation Committee, Thomas Burke Memorial Washington State Museum, Box 353010, University of Washington, Seattle, WA 98195–3010, telephone (206) 543–9680, before December 3, 2003. Repatriation of the sacred object to the Spokane Tribe of the Spokane Reservation, Washington may proceed after that date if no additional claimants come forward.

The Thomas Burke Memorial Washington State Museum is responsible for notifying the Spokane Tribe of the Spokane Reservation, Washington that this notice has been published.

Dated: September 10, 2003.

**John Robbins,**

*Assistant Director, Cultural Resources.*

[FR Doc. 03–27525 Filed 10–31–03; 8:45 am]

**BILLING CODE 4312–50–S**

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## INTERNATIONAL TRADE COMMISSION

**[Investigations Nos. 731–TA–776–779 (Review)]**

## Preserved Mushrooms From Chile, China, India, and Indonesia

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of five-year reviews concerning the antidumping duty orders on preserved mushrooms from Chile, China, India, and Indonesia.

**SUMMARY:** The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on preserved mushrooms from Chile, China, India, and Indonesia would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is December 23, 2003. Comments on the adequacy of responses may be filed with the Commission by January 16, 2004. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**EFFECTIVE DATE:** November 3, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background*—On December 2, 1998, the Department of Commerce (''Commerce'') issued an antidumping duty order on imports of preserved mushrooms from Chile (63 FR 66529) and on February 19, 1999, Commerce issued antidumping duty orders on imports of preserved mushrooms from China, India, and Indonesia (64 FR 8308–8312). Commerce subsequently revoked in part the order on imports from Indonesia (68 FR 39521, July 2, 2003). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

*Definitions*—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Chile, China, India, and Indonesia.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, the Commission found one domestic like product consisting of preserved mushrooms corresponding to the scope of Commerce's investigations.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 03–5–077, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* to consist of all domestic producers of preserved mushrooms. Certain Commissioners defined the *Domestic Industry* differently.

(5) The *Order Date* is the date that the antidumping duty orders under review became effective. In the review concerning Chile, the *Order Date* is December 2, 1998. In the reviews concerning China, India, and Indonesia, the *Order Date* is February 19, 1999.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

*Participation in the reviews and public service list*—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list*—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Certification*—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

*Written submissions*—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 23, 2003. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is January 16, 2004. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by § 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

*Inability to provide requested information*—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

*Information to be Provided in Response to this Notice of Institution:* If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty

orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported Subject Merchandise to the United States or other countries since 1998.

(7) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2002 (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Countries,* provide the following information on your firm's(s') operations on that product during calendar year 2002 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Countries,* provide the following information on your firm's(s') operations on that product during calendar year 2002 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Countries,* and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

Issued: October 28, 2003.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 03–27598 Filed 10–31–03; 8:45 am]

BILLING CODE 7020–02–P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Shani Distributors Denial of Application

On August 20, 2002, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Shani Distributors (Shani) proposing to deny its application, executed on October 21, 1999, for DEA Certificate of Registration as a distributor of list I chemicals. The Order to Show Cause alleged that granting the application of Shani would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(h) and 824(a). The Order to Show Cause also notified Shani that should no request for a hearing be filed within 30 days, its hearing right would be deemed waived.

According to the DEA investigative file, the Order to Show Cause was sent by certified mail to Shani at its proposed registered location in Oklahoma city, Oklahoma. The return receipt indicated that the show cause order has been forwarded by the United States Postal Service to Shani at a second location where it was received on August 28, 2002. DEA has not received a request for hearing or any other reply from Shani or anyone purporting to represent the company in this matter.

Therefore, the Administrator of DEA, finding that (1) thirty days having passed since receipt of the Order to Show Cause, and (2) no request for hearing having been received, concludes that Shani has waived its hearing right. *See Aqui Enterprises,* 67 FR 12576 (2002). After considering relevant

material from the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1309.53(c) and (d) and 1316.67 (2003). The Administrator finds as follows:

List I chemicals are those that may be used in the manufacture of a controlled substance in violation of the Controlled Substances Act. 21 U.S.C. 802(34); 21 CFR 1310.02(a). Pseudophedrine and ephedrine are list I chemicals commonly used to illegally manufacture methamphetamine, a Schedule II controlled substance. Phenylpropanolamine, also a list I chemical, is a legitimately manufactured and distributed product used to provide relief of the symptoms resulting from irritation of the sinus, nasal and upper respiratory tract tissues, and is also used for weight control. Phenylpropanolamine is also a precursor chemical used in illicit manufacture of methamphetamine and amphetamine. Methamphetamine is an extremely potent central nervous system stimulant, and its abuse is a growing problem in the United States.

DEA has obtained information that suggests a growing public health crisis in the State of Oklahoma concerning the abuse of methamphetamine. Contained within the investigative file is a chart prepared by the Oklahoma Bureau of Narcotics, which documents methamphetamine laboratory seizures by various law enforcement entities in that state. According to the chart, there were a total of 4,111 methamphetamine lab seizures in the State of Oklahoma from 1996 to 2002. In 2001 alone, there were 1,193 such seizures. In response to this public health threat, on May 22, 2002, the Governor of Oklahoma signed into law a provision which, among other things, makes it illegal under state law to possess or sell any product containing pseudoephedrine with intent to manufacture methamphetamine or another controlled substance. The new law also makes unlawful the sale of listed chemical products with the knowledge that they will be used as a precursor to manufacture methamphetamine. Okl. St., Sections 2–332, 2–333, *See* 21 U.S.C. 841(c).

The Administrator's review of the investigative file reveals that DEA received an application dated October 21, 1999, on behalf of Shani. The application was submitted by the company's owner, Tariq Maqsood (Mr. Maqsood). The applicant sought DEA registration as a distributor of the list I chemicals pseudoephedrine and phenylpropanolamine. On August 23, 2000, Mr. Maqsood submitted a letter to the DEA Oklahoma City District Office requesting the withdrawal of pseudoephedrine from Shani's DEA registration application. Because Shani did not submit its application for registration on or before July 12, 1997, the firm did not qualify for temporary exemption from the requirement of registration, pursuant to 21 CFR 1309.10.

The Administrator finds that on March 10, 2000, DEA Diversion Investigators conducted a pre-registration inspection on Shani. DEA's investigation revealed that Shani, a sole proprietorship located in Oklahoma City, Oklahoma, specializes in the retail sale of tobacco products, vitamins, candy, and over-the-counter products such as aspirin and ibuprofen. At the time of DEA's on-site preregistration inspection, Shani was located at 532–B North Pennsylvania Avenue in Oklahoma City. The company was situated in a commercial warehouse area and was constructed with both brick and center block. The commercial roof was metal and rock design. Mr. Maqsood informed DEA investigators that in the event Shani's registration application was approved, list I chemical shipments would be received at the back warehouse door. That door was constructed of steel, secured by two sliding bars and a contact switch. After verification of the shipment, the chemicals were to be moved to a secured storage area. The customer entrance door was reinforced with glass and metal and secured with burglar bars, key-lock and the premises were secured with infrared motion detectors and an alarm system.

During the inspection, Mr. Maqsood further informed DEA investigators that he anticipated selling pseudoephedrine (60 mg., 60-ct. bottles) and phenylpropanolamine products to small convenience stores and food marts throughout the Oklahoma City area. Despite Mr. Maqsood's stated intent to sell listed chemical products, DEA's investigation revealed that Shani had no procedures in place to identify ''suspicious'' activity regarding a regulated transaction, in order to report such activity to DEA as required by 21 U.S.C. 830(b)(1)(A) and 21 CFR 1310.05(a)(1). Mr. Maqsood also informed DEA investigators that he had no experience with suspicious orders related to listed chemicals.

Mr. Maqsood further stated that Shani's sale of listed chemical products would be limited to approximately 48 bottles (or approximately eleven cases) per customer each month. When asked about potential suppliers of these products, Mr. Maqsood provided DEA investigators with the names of six companies. The companies were located in the states of California or Texas.

DEA's investigation revealed that in 1997, one of Shani's prospective suppliers (hereinafter referred to as ''JGKC''), located in Los Angeles, California received 90 million 60mg. tablets of pseudoephedrine, with most of the product diverted to clandestine methamphetamine labs in southern California. In March of that year, JGKG's ephedrine products were also discovered at a clandestine methamphetamine laboratory site in the Los Angeles area. DEA documented several additional instances where listed chemical products distributed by JGKG were eventually diverted to illicit uses.

DEA's investigation further revealed that a second prospective listed chemical supplier to Shani (hereinafter referred to at ''AWD'') supplied over six million tablets of ephedrine to a liquor store in 1996. Such distribution practices to a liquor store were apparently in excess of legitimate demand for these products. AWD's pseudoephedrine products were also discovered at a clandestine methamphetamine lab site in the State of California.

An investigation of a third prospective listed chemical supplier (hereinafter referred to as ''IWI'') revealed the sale of large quantities of pseudoephedrine to individuals involved in the illicit sale of listed chemicals in May 1996. DEA developed further information that in October 1996, law enforcement personnel seized 864,000 pseudoephedrine tablets from IWI in Dallas, Texas. Approximately one month later, an additional 432,000 pseudoephedrine tablets were seized from IWI on one occasion, and another 30 cases of that same product were subsequently seized. In 1998, IWI reported that it lost a shipment of 720 bottles of ''Heads Up'' 2-Way listed chemical product. In 1999, IWI was the intended recipient of 1,872 bottles of pseudoephedrine that were seized by law enforcement personnel in Upland, California. DEA further documented numerous excessive or suspicious purchases and sales of pseudoephedrine and ephedrine by IWI from 1993 to 2000.

As noted above, Mr. Maqsood submitted a letter to DEA requesting withdrawal of pseudoephedrine from his company's DEA registration application. As a result, on November 1, 2000, representatives from the DEA Oklahoma City District Office prepared a written memorandum of agreement (MOA) which contained conditions that would allow Shani to handle

phenylpropanolamine only. When asked about specific products he would handle, Mr. Maqsood mentioned combo-ephedrine products. DEA personnel informed Mr. Maqsood of differences between phenylpropanolamine and ephedrine, and further advised Mr. Maqsood that ephedrine was a Schedule IV controlled substance under Oklahoma law, thus requiring state licensure. Mr. Maqsood is not authorized under Oklahoma law to handle ephedrine, nor was the listed chemical included on Shani's application for DEA registration. Mr. Maqsood advised DEA that he would have his attorney review the proposed MOA, and requested a list of products that contained phenylpropanolamine. DEA subsequently provided the information. Mr. Maqsood never responded to DEA with respect to the proposed MOA.

On June 18, 2002, the DEA Oklahoma City District Office was contacted by the Oklahoma City Police Department (OCPD)—Methamphetamine (Investigations) Group regarding suspicious items observed at Shani. The officer informed DEA that while inside Shani, he observed 30–35 cases of ''Heet;'' brand gas line additive (a flammable solution with a chemical composition that includes methyl alcohol), approximately 8–10 cases of lithium batteries, lye and unspecific quantities of pseudoephedrine.

In response to this information, DEA investigators attempted to verify the observations of the OCPD officer by conducting a follow-up inspection of Shani. Upon their arrival, DEA investigators discovered that Shani had moved from the location and relocated to an address at 912 N. Pennsylvania in Oklahoma City. DEA had not received a request from Shani to modify its pending application for DEA Certificate of Registration, and DEA investigators have not performed an inspection of Shani's new business location.

On July 3, 2002, DEA investigators conducted verifications of Shani's customers. A review of the investigative file reveals that Shani's proposed customer base is comprised primarily of small convenience stores and/or food marts that sell gasoline. Shani provided to DEA a list of approximately 34 proposed customers located in or around the Oklahoma City area. DEA's investigation revealed that on February 27, 2001, the owners of two of the listed business establishments were convicted by a federal jury in the Western District of Oklahoma on charges related to the unlawful distribution of listed chemicals. Specifically, the two were convicted of conspiracy and unlawful distribution of pseudoephedrine knowing or having reasonable cause to believe that the product would be used to manufacture methamphetamine, in violation of 21 U.S.C. 841(d)(2) and 846. Both were sentenced to terms of imprisonment exceeding 60 months.

DEA investigators conducted interviews and or inspections of nine business establishments listed by Shani as proposed customers. Of the nine establishments inspected, two revealed that they never heard of Shani; three indicated that they did not intend on purchasing listed chemical products from Shani; one firm disclosed that it had stopped selling pseudoephedrin for over a year; and one informed DEA investigators that it already had a listed chemical supplier. The two remaining business establishments were closed and boarded up.

On July 12, 2002, the DEA Oklahoma City District Office received a letter from the General Counsel for the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (the Bureau) regarding Shani's DEA registration application. The General Counsel argued that approval of Shani's application would be contrary to the public interest of the citizens of Oklahoma based in part upon ''* * * an exponential growth in the number of clandestine methamphetamine laboratories seized'' in that state. The letter further outlined the Bureau's alarm over the events of June 18, 2002, when the Oklahoma City Police Department observed large quantities of ''Heet'' gas line additive and batteries on the premises of Shani. The General Counsel found that these products ''are widely used along with pseudoephedrine to manufacture methamphetamine, and * * * the combination of these three basic substances in one location is very consistent with involvement in such criminal activity.'' The General Counsel concluded that the Bureau was ''aware of no legitimate reason why a chemical dealer would handle only or even primarily Heet, batteries and pseudoephedrine, unless he or she was catering specifically to those engaged in criminal drug manufacturing.''

Pursuant to 21 U.S.C. 823(h), the Administrator may deny an application for Certificate of Registration if he determines that granting the registration would be inconsistent with the public interest as determine under that section. Section 823(h) requires the following factors be considered in determining the public interest:

(1) Maintenance of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) compliance with applicable Federal, State, and local law;

(3) Any prior conviction record under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) Any past experience in the manufacture and distribution of chemicals; and

(5) Such other factors as are relevant to and consistent with the public health and safety.

As with the public interest analysis for practitioners and pharmacies pursuant to subsection (f) of section 823, these factors are to be considered in the disjunctive; the Administrator may rely on any one or combination of factors, and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. *See, e.g., Energy Outlet,* 64 FR 14269 (1999). *See also Henry J. Schwartz, Jr., M.D.,* 54 FR 16422 (1989).

The Administrator finds factors one, four and five relevant to Shani's pending application for registration.

With respect to factor one, maintenance of effective controls against the diversion of listed chemicals, DEA's pre-registration inspection documented adequate security measures taken by Shani with respect to the company's proposed storage of listed chemicals at its 532–B North Pennsylvania location. However, DEA's follow-up inspection of Shani revealed that the company has since abandoned that location and moved its operation to a second location. There is no evidence in the investigative file that Shani has requested modification of its pending application for registration to reflect a different business address, or that DEA has conducted a second pre-registration inspection of Shani to determine the adequacy of any security measures the company currently has in place.

With respect to factor four, the applicant's past experience in the distribution of chemicals, DEA's investigation revealed that the owner of Shani has no previous experience related to distributing or otherwise handling listed chemicals. The investigative file further revealed that Shani has no procedures in place to identify ''suspicious'' activity regarding a regulated transaction, in order to report such activity to DEA as required by to 21 U.S.C. 830(b)(1)(A) and 21 CFR 1310.05(a)(1), and Mr. Maqsood has no experience with suspicious orders related to listed chemicals. This factor weighs against the granting of Shani's pending application. *See, Matthew D.*

*Graham,* 67 FR 10229 (2002); *Xtreme Enterprises, Inc.,* 67 FR 76195 (2002). In addition, the Administrator finds factor four relevant to Mr. Maqsood's unfamiliarity with listed chemical products as evidenced by his statement to DEA investigators that he intended to distribute ephedrine products when not authorized to do so under Oklahoma state law. Mr. Maqsood further demonstrated his lack of familiarity with listed chemical products when he expressed confusion over the differences between combo-ephedrine products and products containing phenylpropanolamine.

With respect to facto five, other factors relevant to and consistent with the public safety, the Administrator finds this factor relevant to Shani's proposal to distribute listed chemical products primarily to convenience stores and combination food mart/gas station. While there are no specific prohibitions under the Controlled Substance Act regarding the sale of listed chemical products to these entities, DEA has nevertheless found that gas stations and convenience stores constitute sources for the diversion of listed chemical products. *See, e.g., Sinbad Distributing,* 67 FR 10232, 10233 (2002); *K.V.M. Enterprises,* 67 FR 70968 (2002) (denial of application based in part upon information developed by DEA that the applicant proposed to sell listed chemicals to gas stations, and the fact that these establishments in turn have sold listed chemical products to individuals engaged in the illicit manufacture of methamphetamine); *Xtreme Enterprises, Inc., supra.* The Administrator is further concerned about Shani's proposed customer base, particularly in light of the public health threat facing the State of Oklahoma and several surrounding states arising from the increased diversion of listed chemicals to the illicit manufacture of methamphetamine.

Notwithstanding the above concerns, the Administrator also finds factor five relevant to the results of DEA's verification of Shani's proposed customers. Among Shani's potential customers were two individuals convicted of felony charges related to the unlawful handling of listed chemicals, two that never heard of Shani, three that revealed their intent not to purchase listed chemicals from Shani, one that had stopped selling pseudoephedrine, and two establishments were closed and boarded up.

Factor five is also relevant to the chemical handling histories of Shani's proposed suppliers. The Administrator is concerned that Shani's proposed suppliers have apparently engaged in distribution practices that has led to the diversion of large quantities of listed chemical products.

The Administrator also finds factor five relevant to Shani's possession and apparent sale of products that facilitate the illicit production of methamphetamine. In addition to listed chemicals such as pseudoephedrine, 'Heet'' gas line additive and other products containing methyl alcohol, lye, as well as lithium batteries, are products typically used in the illicit methamphetamine manufacturing process. These items are routinely discovered by law enforcement personnel at clandestine methamphetamine laboratory sites. *See, Clandestine Drug Labs, FBI Law Enforcement Bulletin,* April 2000. The Administrator has also learned that small-scale retailers in the Oklahoma City area have stockpiled hundreds and thousands of bottles of starting fluid and ''Heet'' products, even during times of the year when there is no apparent demand for the product. When a relatively small scale merchant packages and displays large quantities of such products alongside frequently diverted listed chemicals like pseudoephedrine, that person or entity, either knowingly or unknowingly, creates a climate conducive for the illicit manufacture of methamphetamine.

The Administrator finds relevant under factor five, the recommendation of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control that DEA not approve Shani's application for registration. The Bureau's recommendation was based in part upon concerns surrounding Shani's storage of large quantities of ''Heet'' and batteries, and how these products are catered to individuals engaged in the illicit manufacture of methamphetamine.

The Administrator finds factor five relevant to Shani's request to distribute phenylpropanolamine, and the apparent lack of safety associated with the use of that product. On November 6, 2000, the Food and Drug Administration (FDA) issued a public health advisory concerning phenylpropanolamine. *See, U.S. Food and Drug Administration, Center for Drug Evaluation and Research,* newsletter, November 6, 2000. In a study cited by the FDA, researchers have discovered that taking phenylpropanolamine increases the risk of hemorrhagic stroke (bleeding into the brain or into tissue surrounding the brain) in women. The study found that men may also be at risk for taking the drug. Although the risk of hemorrhagic stroke is very low, the FDA has recommended that consumers not use any products that contain phenylpropanolamine.

In addition, FDA's Nonprescription Drugs Advisory Committee (NDAC) subsequently reviewed the above study and other information on phenylpropanolamine. *Id.* NDAC determined that there is an association between phenylpropanolamine and hemorrhagic stroke and recommended that the drug not be considered safe for over-the-counter use. FDA has requested that all drug companies discontinue marketing products containing phenylpropanolamine. In response to FDA's request, many companies voluntarily reformulated and are continuing to reformulate their products to exclude phenylpropanolamine while FDA proceeds with the regulatory process necessary to remove the drug from the market. *FDA's November 6, 2000 newsletter, supra.*

As of the date of this final order, the Administrator is unaware of whether the FDA has undertaken any regulatory action to remove phenylpropanolamine from the market. However, there is no information before the Administrator to refute recent findings that phenylpropanolamine may pose a health risk to users of the drug. In light of current data which suggests that phenylpropanolamine is unsafe for human consumption, the Administrator finds this factor also weighs against the granting of Shani's application for DEA registration. Based on the foregoing, the Administrator concludes that granting the pending application of Shani would be inconsistent with the public interest.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the pending application for DEA Certificate of Registration, previously submitted by Shani Distributors be, and it hereby is, denied. This order is effective December 3, 2003.

Dated: September 16, 2003.

**Karen P. Tandy,**

*Administrator.*

[FR Doc. 03–26654 Filed 10–31–03; 8:45 am]

BILLING CODE 4410–09–M

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## DEPARTMENT OF JUSTICE

### Federal Bureau of Investigation

### Agency Information Collection Activities: Proposed Collection; Comments Requested

**ACTION:** 30-Day notice of information collection under review: Violent

Criminal Apprehension Program (VICAP) Crime Analysis Report.

The Department of Justice (DOJ), Federal Bureau of Investigation 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 128, on page 39971, on July 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 December 3, 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) 395–7285. 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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Violent Criminal Apprehension Program (VICAP) Crime Analysis Report.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* FD–676. Department of Justice, Federal Bureau of Investigation, Violent Criminal Apprehension Program Unit.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State, Local, or Tribal Government. Brief Abstract: Collects data at crime scenes (*e.g.,* unsolved murders or sexual assaults) for analysis by VICAP staff of the FBI. Law enforcement agencies reporting similar pattern crimes will be provided information to initiate a coordinated multi-agency investigation to expedite identification and apprehension of violent criminal offenders (*e.g.,* serial murderers, serial rapists).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 10,000 respondents at an average of one hour per response.

(6) *An estimate of the annual total public burden (in hours) associated with the collection:* 10,000 total burden hours.

*If additional information is required contact:* 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: October 28, 2003.

**Brenda E. Dyer,**

*Deputy Clearance Officer, United States Department of Justice.*

[FR Doc. 03–27526 Filed 10–31–03; 8:45 am]

BILLING CODE 4410–02–P

## DEPARTMENT OF LABOR

### Office of the Secretary

### Bureau of International Labor Affairs; Request for Information Concerning Labor Rights in Bahrain and Its Laws Governing Exploitative Child Labor

**AGENCIES:** Office of the Secretary, Labor; Office of the United States Trade Representative and Department of State.

**ACTION:** Request for public comments.

**SUMMARY:** This notice is a request for comments from the public to assist the Secretary of Labor, the United States Trade Representative, and the Secretary of State in preparing reports regarding labor rights in Bahrain and describing the extent to which it has in effect laws governing exploitative child labor. The Trade Act of 2002 requires reports on these issues and others when the President intends to use trade promotion authority procedures in connection with legislation approving and implementing a trade agreement. The President assigned the functions of preparing reports regarding labor rights and the existence of laws governing exploitative child labor to the Secretary of Labor, in consultation with the Secretary of State and the United States Trade Representative. The Secretary of Labor further assigned these functions to the Secretary of State and the United States Trade Representative, to be carried out by the Secretary of Labor, the Secretary of State and the United States Trade Representative.

**DATES:** Public comments should be received no later than 5 p.m. December 18, 2003.

**ADDRESSES:** Persons submitting comments are strongly advised to make such submissions by electronic mail to the following address: *FRFTABahrain@dol.gov.* Submissions by facsimile may be sent to: Betsy White, Office of International Economic Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, at (202) 693–4851.

**FOR FURTHER INFORMATION CONTACT:** For procedural questions regarding the submissions, please contact Betsy White, Office of International Economic Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, at (202) 693–4919, facsimile (202) 693–4851. These are not toll-free numbers. Substantive questions concerning the labor rights report and/or the report on Bahrain's laws governing exploitative child labor should be addressed to Jorge Perez-Lopez, Office of International Economic Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–4883, facsimile (202) 693–4851.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On August 4, 2003, in accordance with section 2104(a)(1) of the Trade Act of 2002, the United States Trade Representative (USTR) notified the Congress of the President's intent to initiate a free trade agreement with

Bahrain. The notification letters to the Congress can be found on the USTR Web site at *http://www.ustr.gov/new/fta/Bahrain/2003-08-04-notification-house.pdf and http://www.ustr.gov/new/fta/Bahrain/2003-08-04-notification-senate.pdf,* respectively. The interagency Trade Policy Staff Committee (TPSC) has invited the public to provide written comments and/or oral testimony at a public hearing to be conducted on November 5, 2003 to assist USTR in formulating positions and proposals with respect to all aspects of the negotiations (68 FR 51164) (Aug. 25, 2003). It is intended that negotiations will be launched in January 2004.

The FTA is part of the President's initiative on the creation of a Middle East Free Trade Area. By moving from unilateral trade preferences to a reciprocal trade agreement, the FTA will seek to eliminate duties and unjustified barriers to trade in both U.S.- and Bahrain-origin goods and also address trade in services, trade in agricultural products, investment, trade-related aspects of intellectual property rights, government procurement, trade-related environmental and labor matters, and other issues. The FTA is expected to contribute to stronger economies, the rule of law, sustainable development, and more accountable institutions of governance, complementing ongoing domestic, bilateral, and multilateral efforts in the region.

The Trade Act of 2002 (Pub. L.107–210) (the Trade Act) sets forth special procedures (Trade Promotion Authority) for approval and implementation of Agreements subject to meeting conditions and requirements in Division B of the Trade Act, ''Bipartisan Trade Promotion Authority.'' Section 2102(a)–(c) of the Trade Act includes negotiating objectives and a listing of priorities for the President to promote in order to ''address and maintain United States competitiveness in the global economy'' in pursuing future trade agreements. The President assigned several of the functions in section 2102(c) to the Secretary of Labor. (E.O. 13277). These include the functions set forth in section 2102(c)(8), which requires that the President ''in connection with any trade negotiations entered into under this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating,'' and the function in section 2102(c)(9), which requires that the President ''with respect to any trade agreement which the President seeks to implement under trade authorities procedures, submit to the Congress a report describing the extent to which the country or countries that are parties to the agreement have in effect laws governing exploitative child labor.''

## II. Information Sought

Interested parties are invited to submit written information as specified below to be taken into account in drafting the required reports. Materials submitted should be confined to the specific topics of the reports. In particular, agencies are seeking written submissions on the following topics:

1. Labor laws of Bahrain, including laws governing exploitative child labor, and that country's implementation and enforcement of its labor laws and regulations;
2. The situation in Bahrain with respect to core labor standards;
3. Steps taken by Bahrain to comply with International Labor Organization Convention No. 182 on the worst forms of child labor; and
4. The nature and extent, if any, of exploitative child labor in Bahrain.

Section 2113(6) of the Trade Act defines ''core labor standards'' as:

(A) The right of association;

(B) The right to organize and bargain collectively;

(C) A prohibition on the use of any form of forced or compulsory labor;

(D) A minimum age for the employment of children; and

(E) Acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

## III. Requirements for Submissions

This document is a request for facts or opinions submitted in response to a general solicitation of comments from the public. To ensure prompt and full consideration of submissions, we strongly recommend that interested persons submit comments by electronic mail to the following e-mail address: *FRFTABahrain@dol.gov.* Persons making submissions by e-mail should use the following subject line: ''Bahrain: Labor Rights and Child Labor Reports.'' Documents should be submitted in WordPerfect, MSWord, or text (.TXT) format. Supporting documentation submitted as spreadsheets is acceptable in Quattro Pro or Excel format. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files. Written comments will be placed in a file open to public inspection at the Department of Labor, Room S–5317, 200 Constitution Avenue, NW., Washington, DC 20210, and in the USTR Reading Room in Room 3 of the annex of the Office of the USTR, 1724 F Street, NW, Washington, DC 20508. An appointment to review the file at the Department of Labor may be made by contacting Betsy White at (202) 693–4919. An appointment to review the file at USTR may be made by calling (202) 395–6186. The USTR Reading Room is generally open to the public from 10 a.m.–12 noon and 1–4 p.m., Monday through Friday. Appointments must be scheduled at least 48 hours in advance.

Signed at Washington, DC, this 27th day of October 2003.

**Arnold Levine,**

*Deputy Under Secretary for International Affairs.*

[FR Doc. 03–27568 Filed 10–31–03; 8:45 am]

BILLING CODE 4510–28–P

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## DEPARTMENT OF LABOR

### Office of the Secretary

### Bureau of International Labor Affairs; Request for Information Concerning Labor Rights in the Dominican Republic and Its Laws Governing Exploitative Child Labor

**AGENCIES:** Office of the Secretary, Labor; Office of the United States Trade Representative and Department of State.

**ACTION:** Request for comments from the public.

**SUMMARY:** This notice is a request for comments from the public to assist the Secretary of Labor, the United States Trade Representative, and the Secretary of State in preparing reports regarding labor rights in the Dominican Republic and describing the extent to which it has in effect laws governing exploitative child labor. The Trade Act of 2002 requires reports on these issues and others when the President intends to use trade promotion authority procedures in connection with legislation approving and implementing a trade agreement. The President assigned the functions of preparing reports regarding labor rights and the existence of laws governing exploitative child labor to the Secretary of Labor, in consultation with the Secretary of State and the United States Trade Representative. The Secretary of Labor further assigned these functions to the Secretary of State and the United States Trade Representative, to be carried out by the Secretary of Labor, the Secretary

of State and the United States Trade Representative.

**DATES:** Public comments should be received no later than 5 p.m. December 18, 2003.

**ADDRESSES:** Persons submitting comments are strongly advised to make such submissions by electronic mail to the following address: *FRFTADominicanRepublic@dol.gov.* Submissions by facsimile may be sent to: Betsy White, Office of International Economic Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, at (202) 693–4851.

**FOR FURTHER INFORMATION CONTACT:** For procedural questions regarding the submissions, please contact Betsy White, Office of International Economic Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, at (202) 693–4919, facsimile (202) 693–4851. These are not toll-free numbers. Substantive questions concerning the labor rights report and/or the report on the Dominican Republic's laws governing exploitative child labor should be addressed to Jorge Perez-Lopez, Office of International Economic Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 693–4883, facsimile (202) 693–4851.

**SUPPLEMENTARY INFORMATION:**

## I. Background

On August 4, 2003, in accordance with section 2104(a)(1) of the Trade Act of 2002, the United States Trade Representative (USTR) notified the Congress of the President's intent to enter into free trade negotiations with the Dominican Republic. The notification letters to the Congress can be found on the USTR Web site at *http://www.ustr.gov/new/fta/Dr/2003–08–04-notification-house.pdf* and *http://www.ustr.gov/new/fta/Dr/2003–08–04-notification-senate.pdf* respectively. At a public hearing conducted on October 8, 2003, the interagency Trade Policy Staff Committee (TPSC) received written comments and oral testimony from the public to assist USTR in formulating positions and proposals with respect to all aspects of the negotiations (68 FR 51167) (Aug. 28, 2003). It is intended that negotiations will be launched in January 2004.

Through these negotiations, we expect to provide for essentially the same disciplines as those in the Free Trade Agreement we are currently negotiating with the five members of the Central American Economic Integration System (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) (CAFTA), and to negotiate specific market access commitments with the Dominican Republic.

The Trade Act of 2002 (Pub. L. 107–210) (the Trade Act) sets forth special procedures (Trade Promotion Authority) for approval and implementation of Agreements subject to meeting conditions and requirements in Division B of the Trade Act, ''Bipartisan Trade Promotion Authority.'' Section 2102(a)–(c) of the Trade Act includes negotiating objectives and a listing of priorities for the President to promote in order to ''address and maintain United States competitiveness in the global economy'' in pursuing future trade agreements. The President assigned several of the functions in section 2102(c) to the Secretary of Labor. (E.O. 13277). These include the functions set forth in section 2102(c)(8), which requires that the President ''in connection with any trade negotiations entered into under this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating,'' and the function in section 2102(c)(9), which requires that the President ''with respect to any trade agreement which the President seeks to implement under trade authorities procedures, submit to the Congress a report describing the extent to which the country or countries that are parties to the agreement have in effect laws governing exploitative child labor.''

## II. Information Sought

Interested parties are invited to submit written information as specified below to be taken into account in drafting the required reports. Materials submitted should be confined to the specific topics of the reports. In particular, agencies are seeking written submissions on the following topics:

1. Labor laws of the Dominican Republic, including laws governing exploitative child labor, and that country's implementation and enforcement of its labor laws and regulations;
2. The situation in the Dominican Republic with respect to core labor standards;
3. Steps taken by the Dominican Republic to comply with International Labor Organization Convention No. 182 on the worst forms of child labor; and
4. The nature and extent, if any, of exploitative child labor in the Dominican Republic.

Section 2113(6) of the Trade Act defines ''core labor standards'' as:

(A) The right of association;

(B) The right to organize and bargain collectively;

(C) A prohibition on the use of any form of forced or compulsory labor;

(D) A minimum age for the employment of children; and

(E) Acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

## III. Requirements for Submissions

This document is a request for facts or opinions submitted in response to a general solicitation of comments from the public. To ensure prompt and full consideration of submissions, we strongly recommend that interested persons submit comments by electronic mail to the following e-mail address: *FRFTADominicanRepublic@dol.gov.* Persons making submissions by e-mail should use the following subject line: ''Dominican Republic: Labor Rights and Child Labor Reports.'' Documents should be submitted in WordPerfect, MSWord, or text (.TXT) format. Supporting documentation submitted as spreadsheets is acceptable in Quattro Pro or Excel format. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files. Written comments will be placed in a file open to public inspection at the Department of Labor, Room S–5317, 200 Constitution Avenue NW., Washington, DC 20210, and in the USTR Reading Room in Room 3 of the annex of the Office of the USTR, 1724 F Street NW., Washington, DC 20508. An appointment to review the file at the Department of Labor may be made by contacting Betsy White at (202) 693–4919. An appointment to review the file at USTR may be made by calling (202) 395–6186. The USTR Reading Room is generally open to the public from 10 a.m.–12 noon and 1–4 p.m., Monday through Friday. Appointments must be scheduled at least 48 hours in advance.

Signed at Washington, DC, this 27th of October 2003.

**Arnold Levine,**

*Deputy Under Secretary for International Affairs.*

[FR Doc. 03–27569 Filed 10–31–03; 8:45 am]

BILLING CODE 4510–28–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–52,757]**

### State of Alaska Commercial Fisheries Entry Commission Permit #S04T57885QT, Soldotna, AK; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 4, 2003, in response to a petition filed by a company official on behalf of the group of workers covered by State of Alaska Commercial Fisheries Entry Commission Permit #S04T57885QT, Soldotna, Alaska.

All workers were separated from the subject firm more than one year before the date of the petition. Section 223 (b) of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 10th day of September, 2003.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–27577 Filed 10–31–03; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–52,689]**

### Alkahn Labels, Jac-Arts Division, Cochran, GA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 27, 2003, in response to a petition filed by a company official on behalf of workers at Alkahn Labels, Jac-Arts Division, Cochran, Georgia.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 4th day of September, 2003.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–27574 Filed 10–31–03; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–53,013]**

### American Uniform Co., Robbinsville, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 26, 2003, in response to a petition filed by a company official on behalf of workers at American Uniform Company, Robbinsville, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 8th day of October, 2003.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–27579 Filed 10–31–03; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–52,755]**

### Fishing Vessel (F/V) Kaja Marie, Naknek, AK; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 4, 2003, in response to a petition filed by a company official on behalf of workers of F/V Kaja Marie, Naknek, Alaska.

The petition regarding the investigation has been deemed invalid. In order to establish a valid worker group, there must be at least three full-time workers employed at some point during the period under investigation. Workers of the group subject to this investigation did not meet this threshold level of employment. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 10th day of September, 2003.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–27576 Filed 10–31–03; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–52,767]**

### Karen Manufacturing, Elizabeth, NJ; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 4, 2003, in response to a petition filed by the New Jersey Department of Labor Coordinator on behalf of workers at Karen Manufacturing, Elizabeth, New Jersey.

This investigation revealed that the petitioner regarding the investigation has been deemed invalid. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 10th day of September, 2003.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–27578 Filed 10–31–03; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–52,736]**

### Lala Ellen Knitting, Fort Payne, AL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 3, 2003, in response to a petition filed by a company official on behalf of workers at Lala Ellen Knitting, Fort Payne, Alabama.

The petitioning worker group is covered by an earlier petition filed on August 21, 2003 (TA–W–52,564), that is the subject of an ongoing investigation for which a determination has not yet been issued. Further investigation in this case would duplicate efforts and serve no purpose; therefore the investigation under this petition has been terminated.

Signed at Washington, DC, this 5th day of September, 2003.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–27575 Filed 10–31–03; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–52,430]**

### New York Airbrake Corporation, Watertown, NY; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on July 31, 2003 in response to a petition filed by a company official on behalf of workers at New York Airbrake Corporation, Watertown, New York.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 5th day of September 2003.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–27570 Filed 10–31–03; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–52,437]**

### Saint-Gobain Calmar, Inc., City of Industry, CA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 31, 2003, in response to a worker petition which was filed by the State TAA Coordinator on behalf of workers at Saint-Gobain Calmar, City of Industry, California.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 5th day of September, 2003.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–27571 Filed 10–31–03; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–52,586]**

### Business Confidential, Thantex Specialities, Inc., Abbeville, SC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on August 18, 2003, in response to a petition filed by a company official on behalf of workers at Thantex Specialties, Inc., Abbeville, South Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 4th day of September, 2003.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–27573 Filed 10–31–03; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–52,579]**

### Wellington Synthetic Fibers, Leesville, SC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on August 18, 2003, in response to a petition filed by a company official on behalf of workers at Wellington Synthetic Fibers, Leesville, South Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 4th day of September, 2003.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–27572 Filed 10–31–03; 8:45 am]

BILLING CODE 4510–30–P

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Arts; Combined Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that three meetings of the Combined Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 as follows:

*Dance:* November 17–19, 2003, Room 730 (Challenge America-Access and Heritage and Preservation categories). This meeting will be closed.

*Opera:* November 24, 2003, Room 714 (Challenge America: Access, Heritage and Preservation categories). A portion of this meeting, from 4:30 p.m. to 5:30 p.m., will be open to the public for policy discussion. The remaining portions of this meeting, from 9 a.m. to 4:30 p.m. and from 5:30 p.m. to 6 p.m., will be closed.

*Multidisciplinary/Presenting:* December 1–5, 2003, Room 716 (Challenge America: Access. Heritage & Preservation categories). A portion of this meeting, from 11:15 a.m. to 12:30 p.m., will be open to the public for policy discussion. The remaining portions of this meeting, from 9 a.m. to 6 p.m. on December 1st through 4th, and from 9 a.m. to 11:15 a.m. and 12:30 p.m. to 3 p.m., will be closed.

The closed meetings and portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of April 30, 2003, these sessions will be closed to the public pursuant to subsection (c)(6) of 5 U.S.C. 552b.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: October 28, 2003.

**Kathy Plowitz-Worden,**

*Panel Coordinator, Panel Operations, National Endowment for the Arts.*

[FR Doc. 03–27535 Filed 10–31–03; 8:45 am]

BILLING CODE 7537–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 72–3]**

### Carolina Power & Light Company, H.B. Robinson Independent Spent Fuel Storage Installation; Notice of Docketing of Materials License SNM–2502 Amendment Application

By letter dated September 3, 2003, Carolina Power and Light Company (CP&L) submitted an application to the Nuclear Regulatory Commission (NRC or the Commission), in accordance with 10 CFR part 72, requesting the amendment of the H. B. Robinson (HBR) independent spent fuel storage installation (ISFSI) license (Materials License No. SNM–2502) and the Technical Specifications for the ISFSI located at Darlington County, South Carolina. CP&L is seeking NRC approval to amend the materials license to make editorial changes to the ISFSI's technical specifications. Specifically, CP&L requested changes to the drawing numbers referenced in the technical specifications from the original ISFSI vendor's numbers to the H. B. Robinson plant's numbers used for drawing control. The requested changes do not affect the design, operation, maintenance, or surveillance of the ISFSI.

This application was docketed under 10 CFR part 72; the ISFSI Docket No. is 72–3 and will remain the same for this action. The amendment of an ISFSI license is subject to NRC approval.

The Commission may issue either a notice of hearing or a notice of proposed action and opportunity for hearing in accordance with 10 CFR 72.46(b)(1) or, if a determination is made by the Director, Office of Nuclear Material Safety and Safeguards, or his designee, that the amendment does not present a genuine issue as to whether public health and safety will be significantly affected, the Director may take immediate action on the amendment in accordance with 10 CFR 72.46(b)(2) and provide notice of the action taken and an opportunity for interested persons to request a hearing on whether the action should be rescinded or modified.

For further details with respect to this application, see the application dated September 3, 2003, which is available for public inspection at the Commission's Public Document Room, One White Flint North Building, 11555 Rockville Pike, Rockville, MD or from the publicly available records component of NRC's Agencywide Documents Access and Management System (ADAMS) under Accession No. ML032510880. The NRC maintains ADAMS, which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 24th day of October 2003.

For the Nuclear Regulatory Commission.

**James Randall Hall,**

*Senior Project Manager, Licensing Section, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 03–27559 Filed 10–31–03; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission (NRC) has issued a revision of a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in its review of applications for permits and licenses, and data needed by the NRC staff in its review of applications for permits and licenses.

Revision 1 of Regulatory Guide 1.53, ''Application of the Single-Failure Criterion to Safety Systems,'' provides guidance on methods acceptable to the NRC staff for satisfying the NRC's regulations with respect to the application of the single-failure criterion to the electrical power, instrumentation, and control portions of nuclear power plant safety systems.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington DC 20555. Questions on the content of this guide may be directed to Mr. S. Aggarwal, (301)415–6005; *e-mail SKA@NRC.GOV.*

Regulatory guides are available for inspection or downloading at the NRC's Web site at <*http://www.nrc.gov*> under Regulatory Guides and in NRC's Electronic Reading Room (ADAMS System) at the same site. Single copies of regulatory guides may be obtained free of charge by writing the Reproduction and Distribution Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to (301) 415–2289, or by e-mail to <*distribution@nrc.gov*>. Issued guides may also be purchased from the National Technical Information Service (NTIS) on a standing order basis. Details on this service may be obtained by writing NTIS at 5285 Port Royal Road, Springfield, VA 22161; telephone 1–800–553–6847; <*http://www.ntis.gov/*>. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, MD this 13th day of October 2003.

For the Nuclear Regulatory Commission.

**Ashok C. Thadani,**

*Director, Office of Nuclear Regulatory Research.*

[FR Doc. 03–27560 Filed 10–31–03; 8:45 am]

BILLING CODE 7590–01–P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of November 3, 2003:

A Closed Meeting will be held on Wednesday, November 5, 2003 at 10:30 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. 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 Meeting.

Commissioner Atkins, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Wendesday, November 5, 2003 will be:

Formal orders of investigation;

Institution and settlement of administrative proceedings of an enforcement nature;

Institution and settlement of injunctive actions; and

Opinions.

For further information, please contact the Office of the Secretary at (202) 942–7070.

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: October 28, 2003.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 03–27616 Filed 10–31–03; 4:14 pm]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–48708; File No. SR–Amex–2003–91]**

## Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to the Listing and Trading of Notes Based on the Morgan Stanley Technology Index

October 28, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 22, 2003, the American Stock Exchange LLC (''Amex'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which the Amex has prepared. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240. 19b–4.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to list and trade, under Section 107A of the Amex Company Guide, senior non-convertible debt securities (''Notes'') of Morgan Stanley, the return on which is based on the performance of the Morgan Stanley Technology Index.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

Under Section 107A of the Amex Company Guide, the Amex may approve for listing and trading securities that cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.[3] The Amex proposes to list for trading Notes based on the Morgan Stanley Technology Index.[4] The Technology Index will be determined, calculated and maintained solely by the Amex.[5] The Notes will conform to the listing guidelines under Section 107A of the Amex Company Guide[6] and the continued listing guidelines under Sections 1001–1003 of the Amex Company Guide.[7]

The Notes are senior non-convertible debt securities of Morgan Stanley that will have a term of not less than one year nor more than ten years. The ''Initial Index Value'' is the value of the Technology Index on the date the Notes are priced for the initial sale to the public. At maturity the holder of Notes will be entitled to receive an amount based upon an ''Average Index Value,'' which will be determined by calculating the arithmetic average of the ''Closing Index Value'' on each of three (3) trading days on which no market disruption event occurs, beginning on or after December 23, 2004. The Notes will not have a minimum principal amount that will be repaid and, accordingly, payments on the Notes prior to or at maturity may be less than the original issue price of the Notes. The Notes are not callable by the issuer.

The ''Redemption Amount,'' which is the payment that a holder or investor will receive at maturity of the Note, will be based on whether the Average Index Value is greater or less than the Initial Index Value. If the Average Index Value is greater than the Initial Index Value, a holder of the Notes will receive a Redemption Amount in cash equal to $10 plus the ''Leveraged Upside Payment.'' The Leveraged Upside Payment is equal to $10 multiplied by

[3] *See* Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990) (order approving File No. SR–Amex–89–29).

[4] The Morgan Stanley Technology Index is an equal-dollar weighted index consisting of thirty-five (35) securities designed to measure the performance of a cross-section of highly capitalized U.S. companies that are active in nine technology subsectors: (i) computer services; (ii) design software; (iii) server software; (iv) PC software and new media; (v) networking and telecommunications equipment; (vi) server hardware; (vii) server hardware; (viii) PC hardware and peripherals; and (ix) specialized systems and semi-conductors.

[5] As further described in the prospectus, the Amex is solely responsible for calculating and maintaining the Technology Index in consultation with Morgan Stanley & Co., Inc. These duties, among others, include changes to the Index due to annual reconstitutions and adjustments. The Amex has re-submitted a letter dated August 29, 1995 from Morgan Stanley to the Commission that describes the role of the Amex with respect to the calculation and maintenance of the Technology Index, and has further represented that the same methodology will apply with respect to the Notes that are the subject of this proposed rule change. See Memorandum from Jeffrey P. Burns, Associate General Counsel, Amex, to Patrick M. Joyce, Special Counsel, Commission, dated October 21, 2003.

[6] The initial listing standards for the Notes require: (1) a minimum public distribution of one million units; (2) a minimum of 400 shareholders; (3) a market value of at least $4 million; and (4) a term of at least one year. In addition, the listing guidelines provide that the issuer have assets in excess of $100 million, stockholder's equity of at least $10 million, and pre-tax income of at least $750,000 in the last fiscal year or in two of the three prior fiscal years. In the case of an issuer which is unable to satisfy the earning criteria stated in Section 101 of the Amex Company Guide, the Amex will require the issuer to have the following: (1) assets in excess of $200 million and stockholders' equity of at least $10 million; or (2) assets in excess of $100 million and stockholders' equity of at least $20 million.

[7] The Amex's continued listing guidelines are set forth in Sections 1001 through 1003 of Part 10 to the Amex Company Guide. Section 1002(b) of the Amex Company Guide states that the Amex will consider removing from listing any security where, in the opinion of the Amex, it appears that the extent of public distribution or aggregate market value has become so reduced to make further dealings on the Amex inadvisable. With respect to continued listing guidelines for distribution of the Notes, the Amex will rely, in part, on the guidelines for bonds in Section 1003(b)(iv). Section 1003(b)(iv)(A) provides that the Amex will normally consider suspending dealings in, or removing from the list, a security if the aggregate market value or the principal amount of bonds publicly held is less than $400,000.

200% of the percentage increase in the value of the Technology Index Notes, subject to a maximum payment amount (or ''Capped Amount'') determined at the time of issuance. The calculation of this Redemption Amount is set forth below:

$$\$10 + \left[\$10 \times 200\% \times \left(\frac{\text{Average Index Value} - \text{Initial Index Value}}{\text{Initial Index Value}}\right)\right], \text{ subject to Capped Amount}$$

If the Average Index Value is less than or equal to the Initial Index Value, a holder of the Notes will receive a Redemption Amount in cash equal to the principal amount multiplied by an ''Index Performance Factor.'' This Index Performance Factor is the relationship between the Average Index Value and the Initial Index Value, and will be a number equal or less than 1.0. The calculation of this Redemption Amount is set forth below:

$$\$10 \times \left(\frac{\text{Average Index Value}}{\text{Initial Index Value}}\right)$$

The Redemption Amount in this case would accordingly be less than or equal to $10 for each $10 principal amount of the Notes.

The Notes are cash-settled in U.S. dollars and do not give the holder any right to receive a portfolio security or any other ownership right or interest in the portfolio of securities comprising the Technology Index. The Notes are designed for investors who want to participate in or gain exposure to the companies involved in various technology subsectors and who are willing to forego market interest payments on the Notes during such term. The Commission has previously approved the listing of options on the Technology Index.[8]

As of October 14, 2003, the market capitalization of the securities that would represent the Technology Index would range from a high of $314.4 billion to a low of $3.14 billion. The average monthly trading volume of the securities comprising the Index for the last six months, as of the same date, ranged from a high of 742.5 million shares to a low of 36.02 million shares. The aggregate market capitalization of all securities in the Index was approximately $1.714 trillion. The Amex would continue to calculate and disseminate the value of the Notes every fifteen seconds over the Consolidated Tape Association's Network B.

Because the Notes are linked to an equity index, the Amex's existing equity floor trading rules would apply to the trading of the Notes. First, pursuant to Amex Rule 411, the Amex would impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Notes.[9] Second, the Notes would be subject to the equity margin rules of the Amex.[10] Third, the Amex would, prior to trading the Notes, distribute a circular to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the Notes and highlighting the special risks and characteristics of the Notes. With respect to suitability recommendations and risks, the Amex would require members, member organizations and employees thereof recommending a transaction in the Notes: (1) To determine that such transaction is suitable for the customer, and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, such transaction. In addition, Morgan Stanley will deliver a prospectus in connection with the initial purchase of the Notes.

The Amex represents that its surveillance procedures are adequate to properly monitor the trading of the Notes. Specifically, the Amex will rely on its existing surveillance procedures governing equities, which have been deemed adequate under the Act. Because the Index is maintained by a broker-dealer or an affiliate of a broker-dealer, it is imperative that there be a functional separation, such as a firewall, between the trading desk of the broker-dealer and the research persons responsible for maintaining the Index. Morgan Stanley has represented to the Commission that such a firewall exists. Moreover, because Morgan Stanley presents Amex with a list of potential component replacements, it is imperative that both Morgan Stanley and Amex have policies that prohibit the distribution of material, non-public information by its employees. Morgan Stanley and Amex have represented that they have policies that prohibit the distribution of material, non-public information by their employees.

2. Statutory Basis

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act[11] and furthers the objectives of Section 6(b)(5) of the Act[12] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Amex does not believe that the proposed rule change will impose any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Amex did not receive any written comments on the proposed rule change.

**III. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change 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

[8] *See* Securities Exchange Act Release Nos. 36283 (September 26, 1995), 60 FR 51825 (October 3, 1995) (approving the listing of options on the Morgan Stanley High Technology 35 Index); and 41472 (June 2, 1999), 64 FR 31331 (June 10, 1999) (approving a reduction in the Morgan Stanley High Technology Index Value).

[9] Amex Rule 411 requires that every member, member firm or member corporation use due diligence to learn the essential facts, relative to every customer and to every order or account accepted.

[10] *See* Amex Rule 462 and Section 107B of the Amex Company Guide.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the File No. SR–Amex–2003–91 and should be submitted by November 24, 2003.

## IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5) of the Act.[13] The Commission finds that this proposal is similar to several approved notes whose value is linked to an equity index currently listed and traded on the Amex.[14] Accordingly, the Commission finds that the listing and trading of the Notes based on the Technology Index are consistent with the Act and will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, protect investors and the public interest consistent with Section 6(b)(5) of the Act.[15]

As described more fully above, at maturity, the holder of a Note will receive an amount based upon the Average Index Value of the Technology Index. Specifically, at maturity, the holder of a Note will be entitled to receive a payment based on whether the Average Index Value is greater or less than the Initial Index Value. If the Average Index Value is greater than the Initial Index Value, the holder of the Notes will receive an amount in cash equal to $10 plus the Leveraged Upside Payment. The Leveraged Upside Payment is equal to $10 multiplied by 200% of the percentage increase in the value of the Technology Index, subject to the Capped Amount. If the Average Index Value is less than or equal to the Initial Index Value, a holder of the Notes will receive a Redemption Amount in cash equal to the principal amount multiplied by the Index Performance Factor. The Index Performance Factor is the relationship between the Average Index Value and the Initial Index Value and will be a number equal or less than 1.0, and accordingly will be less than or equal to $10 for each $10 principal amount of the Notes.

The Notes will provide investors who are willing to forego market interest payments during the term of the Notes with a means to participate or gain exposure to the Technology Index, subject to a cap.

The Commission notes that the Notes are not leveraged on the downside, non-principal protected instruments. The Notes are debt instruments whose price will be derived and based upon the value of the Technology Index. The Notes do not have a minimum principal amount that will be repaid at maturity, and the payments of the Notes prior to or at maturity may be less than the original issue price of the Notes. Thus, if the value of the Technology Index has declined at maturity, the holder of the Note will receive less than the original public offering price of the Note. Accordingly, the level of risk involved in the purchase or sale of the Notes is similar to the risk involved in the purchase or sale of traditional common stock. Because the final rate of return of the Notes is derivatively priced, based on the performance of the 35 common stocks underlying the Technology Index, and because the Notes are instruments that do not guarantee a return of principal, there are several issues regarding the trading of this type of product. However, for the reasons discussed below, the Commission believes that the Amex's proposal adequately addresses the concerns raised by this type of product.

The Commission notes that the Amex's rules and procedures that address the special concerns attendant to the trading of hybrid securities will be applicable to the Notes. In particular, by imposing the hybrid listing standards, suitability, disclosure, and compliance requirements noted above, the Amex, in the Commission's view, has addressed adequately the potential problems that could arise from the hybrid nature of the Notes. The Amex will require members, member organizations and employees thereof recommending a transaction in the Notes to: (1) determine that such transaction is suitable for the customer and (2) have a reasonable basis for believing that the customer can evaluate the special characteristics, and bear the financial risks, of such transaction.

Moreover, the Commission notes that the Amex will distribute a circular to its membership calling attention to the specific risks associated with the Notes. The Commission also notes that Morgan Stanley will deliver a prospectus in connection with the initial sales of the Notes. In addition, the Commission notes that Amex will incorporate and rely upon its existing surveillance procedures governing equities. The Commission believes that the Exchange has appropriate surveillance procedures in place to detect and deter potential manipulation for similar index-linked products.

Because Morgan Stanley presents Amex with a list of potential component replacements, it is imperative that Morgan Stanley and Amex have policies that prohibit the distribution of material, non-public information by their employees. Morgan Stanley and Amex have represented that they have policies that prohibit the distribution of material, non-public information by their employees. Moreover, because the Index is maintained by a broker-dealer or an affiliate of a broker-dealer, it is imperative that there be a functional separation, such as a firewall, between the trading desk of the broker-dealer and the research persons responsible for maintaining the Index. Morgan Stanley has represented to the Commission that such a firewall exists.

In approving the product, the Commission recognizes that the Technology Index is an equal-dollar index comprised of 35 component stocks designed to measure the performance of a cross-section of highly capitalized U.S. companies that are active in nine technology subsectors: (i) Computer services; (ii) design software; (iii) server software; (iv) PC software and new media; (v) networking and telecommunications equipment; (vi) server hardware; (vii) server hardware; (viii) PC hardware and peripherals; and (ix) specialized systems and semi-conductors. As of October 14, 2003, the market capitalization of the securities that would represent the Technology Index would range from a high of $314.4 billion to a low of $3.14 billion. The average monthly trading volume of the securities comprising the Index for the

[13] 15 U.S.C. 78f(b)(5).

[14] *See* Securities Exchange Act Release Nos. 47911 (May 22, 2003), 68 FR 32558 (May 30, 2003) (approving the listing and trading of notes (Wachovia TEES) linked to the S&P 500); 47983 (June 4, 2003), 68 FR 35032 (June 11, 2003) (approving the listing and trading of a CSFB Accelerated Return Notes linked to S&P 500); 48152 (July 10, 2003), 68 FR 42435 (July 17, 2003) (approving the listing and trading of a UBS Partial Protection Note linked to the S&P 500); 48151 (July 10, 2003), 68 FR 42438 (July 17, 2003) (approving the listing and trading of Merrill Lynch Accelerated Return Notes linked to the performance of the Amex Biotechnology Index); and 48486 (September 11, 2003), 68 FR 54758 (September 18, 2003) (approving the listing and trading of CSFB contingent principal protection notes linked to the S&P 500).

[15] 15 U.S.C. 78f(b)(5). In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

last six months, as of the same date, ranged from a high of 742.5 million shares to a low of 36.02 million shares. The aggregate market capitalization of all securities in the Index was approximately $1.714 trillion. Given the compositions of the stocks underlying the Technology Index, the Commission believes that the listing and trading of the Notes that are based on the performance of the Technology Index should not unduly impact the market for the underlying securities comprising the Technology Index or raise manipulative concerns. As discussed more fully above, the underlying stocks comprising the Technology Index are highly capitalized U.S. securities.

Furthermore, the Commission notes that the Notes depend upon the individual credit of the issuer, Morgan Stanley. To some extent this credit risk is minimized by the listing standards in Section 107A of the Amex Company Guide, which provide that only issuers satisfying substantial asset and equity requirements may issue securities such as the Notes. In addition, the Amex's ''Other Securities'' listing standards further require that the Notes have a market value of at least $4 million.[16] In any event, financial information regarding Morgan Stanley, in addition to the information on the 35 component stocks comprising the Technology Index, will be publicly available.[17]

The Commission also has a systemic concern, however, that a broker-dealer such as Morgan Stanley, or a subsidiary providing a hedge for the issuer, will incur position exposure. However, as the Commission has concluded in previous approval orders for other hybrid instruments issued by broker-dealers,[18] the Commission believes that this concern is minimal given the size of the Notes issuance in relation to the net worth of Morgan Stanley.

Finally, the Commission notes that the value of the Technology Index will be disseminated at least once every fifteen seconds throughout the trading day over the Consolidated Tape Association's Network B. The Commission believes that providing access to the value of the Technology Index at least once every fifteen seconds throughout the trading day is extremely important and will provide benefits to investors in the product.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Amex has requested accelerated approval because this product is similar to several other instruments currently listed and traded on the Amex.[19] The Commission believes that the Notes will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading the Notes promptly. Additionally, the Notes will be listed pursuant to Amex's existing hybrid security listing standards as described above. Based on the above, the Commission believes that there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act,[20] to approve the proposal on an accelerated basis.

## V. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–Amex–2003–91), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03–27593 Filed 10–31–03; 8:45 am]

BILLING CODE 8010–01–P

[16] *See* Amex Company Guide Section 107A.

[17] The Commission notes that the 35 component stocks that make up the Technology Index are reporting companies under the Act, and the Notes will be registered under Section 12 of the Act.

[18] *See, e.g.*, Securities Exchange Act Release Nos. 44913 (October 9, 2001), 66 FR 52469 (October 15, 2001) (order approving the listing and trading of notes whose return is based on the performance of the Nasdaq-100 Index) (File No. SR–NASD–2001–73); 44483 (June 27, 2001), 66 FR 35677 (July 6, 2001) (order approving the listing and trading of notes whose return is based on a portfolio of 20 securities selected from the Amex Institutional Index) (File No. SR–Amex–2001–40); and 37744 (September 27, 1996), 61 FR 52480 (October 7, 1996) (order approving the listing and trading of notes whose return is based on a weighted portfolio of healthcare/biotechnology industry securities) (File No. SR–Amex–96–27).

[19] *See* note 14, *supra.*

[20] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[21] 15 U.S.C. 78s(b)(2).

[22] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–48681; File No. SR–CBOE–2003–14]**

## Self-Regulatory Organizations; Order Granting Approval 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

October 22, 2003.

## I. Introduction

On March 25, 2003, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to permit the trading of options on the reduced value, Revised NYSE Composite Index. On August 6, 2003, the CBOE submitted Amendment No.1 to the proposed rule change.[3]

The proposed rule change, as amended, was published for comment in the **Federal Register** on September 5, 2003.[4] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

## II. Description of the Proposal

In January 2003, the New York Stock Exchange, Inc. (''NYSE'') announced that it would replace the NYSE Composite Index (''Old Index''), which was designed to measure the performance of securities listed on the NYSE (with the exception of preferred securities), with a Revised NYSE Composite Index.[5] The Revised NYSE Composite Index has 700 fewer components than the Old Index and, according to the NYSE, should create an index that is more representative of investable equity securities tracked on

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *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''). In Amendment No. 1, CBOE replaced its proposed rule change in its entirety.

[4] *See* Securities Exchange Act Release No. 48416 (August 27, 2003), 68 FR 52804.

[5] The Revised NYSE Composite Index would continue to measure the performance of all NYSE-listed common stock, American Depository Receipts (''ADRs''), tracking stocks and real estate investment trusts (''REITs''), but would exclude closed-end investment companies, exchange traded funds (''ETFs''), derivatives, preferred stocks, shares of beneficial interest, trust units and limited partnerships.

the NYSE. In addition, the Revised NYSE Composite Index would be calculated using a float-adjusted market capitalization weighting method instead of a full-market capitalization weighting, as was used in the Old Index.[6] The float-adjusted market capitalization method is used to reflect only the number of shares that are actually available to investors.[7] The Revised NYSE Composite Index will be maintained and calculated by the Dow Jones. Maintenance includes monitoring and implementing the adjustments for company additions and deletions, share changes, stock splits, stock dividends, corporate restructurings, spin-offs and other corporate actions.

The CBOE has proposed to list and trade options based on one-tenth (1/10th) the value of the Revised NYSE Composite Index as well as LEAPS and reduced-value LEAPS on the Revised NYSE Composite Index. The Revised NYSE Composite Index, unlike the Old Index, is a broad-based index designed to reflect the actual number of shares available to investors, and will be treated as a broad-based index under CBOE Rules. All other material terms to the options on the Revised NYSE Composite Index remain the same as those of the Old Index. Accordingly, options on the index would continue to have a.m., European style settlement, the same position and exercise limits as the Old Index options and broad based index options margin.

## III. Discussion

The Commission has carefully reviewed the CBOE's proposed rule change and finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[8] and with the requirements of section 6(b) of the Act.[9] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5)[10] of the Act which requires that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. While the Exchange does not believe that these changes will result in any material differences in the manner in which options on the Reduced Value Index will trade, the Commission believes that certain issues need to be addressed, including the float-adjusted market capitalization method for the index.

The Commission believes that index options on the Revised NYSE Composite Index should be beneficial to members that want to track the New York Stock Exchange equity markets, and could provide a useful hedging vehicle for such investors.[11] Because the Revised NYSE Composite Index is intending to track the NYSE's equity markets as a whole, the index is appropriately treated as a broad-based index option under CBOE rules, and for regulatory purposes.

As noted above, the float-adjusted market capitalization eliminates certain holdings that are not freely available from the capitalization calculation. This is the first index option CBOE will be trading using this method of calculation for the underlying index. The Commission believes that this newly-developed method for calculating the index value could help to relieve the potential price distortions that could result from including in the index the entire capitalization of a company with limited free float. While this somewhat reduces the overall capitalization of the Revised NYSE Composite Index, the capitalization of this index will still remain extremely large.

The Commission also notes that while the Exchange's proposal to list and trade options at one-tenth (1/10th) of the value of the underlying index represents a departure from the calculation used in the Old Index, the Commission does not believe that this should raise concerns. The purpose behind this change is to reduce the extremely large contract size that would result from pairing the standard contract multiplier with such a high underlying index level.[12] Such a reduction will provide investors with product offerings that are consistent with those available for the Old Index. Because the reduction in contract size is intended to have the index value be reduced to levels similar to the contract size on the Old Index, the Commission has determined that it is appropriate to apply the same position and exercise limits applicable to the Old Index options to the new option contracts on the Revised NYSE Composite Index. Further, the 45,000-contract limit with a reduction to 25,000 contracts in the near-term months, is equivalent to the position and exercise limits applicable to other similar broad-based indices.

The Commission notes that margin requirements and other material terms of the options, such as a.m. settlement, will remain unchanged, and, as such, the trading of options on the Revised NYSE Composite Index does not raise any new issues in these areas. CBOE has stated that it will apply its existing surveillance procedures to monitor trading in options on the Revised NYSE Composite Index. The Commission believes that these procedures should be sufficient to detect as well as deter manipulation and other trading abuses.

Finally, the CBOE has agreed to send a circular to members discussing the Revised NYSE Composite Index and the index options that will be traded on CBOE on the Revised NYSE Composite Index. The circular will discuss the new float-adjusted market capitalization method. The Commission believes that this will be useful since the Old Index had a different calculation method and this is the first time that CBOE will be trading index options using a float-adjusted market capitalization method. The Revised NYSE Composite Index will also have a different symbol than the one used for the Old Index. These efforts should help to avoid investor confusion relating to options on the Old Index and the Revised NYSE Composite Index.

[6] The CBOE states that all option series on the Old Index have expired and no new series in Old Index Options have been added or will be added.

[7] In calculating this number of shares, the float-adjusted market capitalization methodology will reduce each underlying issuer's market share in the Revised NYSE Composite Index by the market capitalization value represented by those shares held through 5% or more block ownership. The following types of ownership are considered block ownership: cross ownership (shares that are owned by other companies); government ownership (shares that are owned by governments or their agencies; private ownership (shares that are closely held by individuals, families or charitable trusts and foundations); and restricted shares (shares that are not allowed to be traded during a certain period of time).

[8] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to a product that served no hedging or other economic function because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of index options on the Revised NYSE Composite Index will provide investors with a hedging vehicle for all equity securities traded on the NYSE.

[12] The Old Index was calculated to a base of 500 and, after multiplying by the standard $100 contract multiplier, the contract size was $50,000. The Revised NYSE Composite Index is calculated to a base of 5,000, which, after multiplying by the standard $100 contract multiplier, yields a contract size of $500,000. To address this extremely large contract size, the CBOE has proposed to list and trade options based on 1/10th of the value of the Revised NYSE Composite Index. This translates to a contract size of $50,000, which is the same as that of the Old Index.

In summary, the Commission notes that the Revised NYSE Composite Index is a broad-based index and that listing options on the Revised NYSE Composite Index will provide an opportunity for investors to hedge the market risk associated with the trading of equity securities on the NYSE.

## IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[13] that the proposed rule change, as amended (SR–CBOE–2003–14) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03–27536 Filed 10–31–03; 8:45 am]

BILLING CODE 8010–01–P

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster #3555]**

### State of California

As a result of the President's major disaster declaration on October 27, 2003, I find that Los Angeles, San Bernardino, San Diego and Ventura Counties in the State of California constitute a disaster area due to damages caused by wildfires occurring on October 21, 2003 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 26, 2003 and for economic injury until the close of business on July 27, 2004 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Imperial, Inyo, Kern, Orange, Riverside and Santa Barbara in the State of California; La Paz and Mohave Counties in the State of Arizona; and Clark County in the State of Nevada.

The interest rates are:

| | Percent |
|---|---|
| For Physical Damage: | |
| Homeowners with credit available elsewhere | 5.125 |
| Homeowners without credit available elsewhere | 2.562 |
| Businesses with credit available elsewhere | 6.199 |
| Businesses and non-profit organizations without credit available elsewhere | 3.100 |
| Others (including non-profit organizations) with credit available elsewhere | 5.500 |
| For Economic Injury: | |
| Businesses and small agricultural cooperatives without credit available elsewhere | 3.100 |

The number assigned to this disaster for physical damage is 355505. For economic injury the number is 9X4600 for California; 9X4700 for Arizona; and 9X4800 for Nevada.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 28, 2003.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 03–27548 Filed 10–31–03; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF STATE

**[Public Notice 4523]**

### Advisory Committee on Labor Diplomacy; Notice of Meeting

The Advisory Committee on Labor Diplomacy (ACLD) will hold a meeting beginning at 9 a.m. on November 17, 2003 in room 1406, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520. Committee Chairman Thomas R. Donahue, former President of the AFL–CIO, will chair the meeting.

The ACLD is composed of prominent persons with expertise in the area of international labor policy and labor diplomacy. The ACLD advises the Secretary of State and the President on the resources and policies necessary to implement labor diplomacy programs efficiently, effectively and in a manner that ensures success in promoting the objectives and ideals of U.S. labor policies in the 21st century. The ACLD makes recommendations on how to strengthen the Department of State's ability to respond to the many challenges facing the United States and the federal government in international labor matters. These challenges include the protection of worker rights, the elimination of exploitative child labor, and the prevention of abusive working conditions.

The agenda for the November 17 meeting includes:

(1) Reading of the minutes of the last ACLD meeting;

(2) Review of the developments in Afghanistan, Iraq and the Middle East since the last ACLD meeting on May 2, 2003;

(3) Discussion of alternative proposals for labor diplomacy in Afghanistan, Iraq and the Middle East.

Members of the public are welcome to attend the meeting as seating capacity allows. As access to the Department of State is controlled, persons wishing to attend the meeting must be pre-cleared by calling or faxing the following information, by close of business November 11, to Executive Director, ACLD, Jean Gardner at tel. (202) 647–3664, or fax (202) 647–0431, e-mail *Gardnerdj@state.gov;* name, company or organization affiliation (if any); date of birth; and social security number. Pre-cleared persons should use the C Street entrance to the State Department and have a driver's license with photo, a passport, a U.S. Government ID or other valid photo identification.

Members of the public may, if they wish, submit a brief statement to the Committee in writing. Those wishing further information should contact Ms. Gardner at the phone and fax numbers provided above.

Dated: October 27, 2003.

**Loren Craner,**

*Assistant Secretary, Bureau of Democracy, Human Rights and Labor, Department of State.*

[FR Doc. 03–27600 Filed 10–31–03; 8:45 am]

BILLING CODE 4710–18–P

## TENNESSEE VALLEY AUTHORITY

### Sunshine Act; Notice of Meeting

**AGENCY HOLDING THE MEETING:** Tennessee Valley Authority (Meeting No. 1548).

**TIME AND DATE:** 9 a.m. (EST), November 5, 2003, Fogelman Executive Conference Center Auditorium, Memphis, Tennessee.

**STATUS:** Open.

### Agenda

Approval of minutes of meeting held on August 27, 2003.

### New Business

*A—Budget and Financing*

A1. Approval of tax-equivalent payments for Fiscal Year 2003 and estimated payments for Fiscal Year 2004.

A2. Delegation of authority to the Chief Financial Officer; Executive Vice President, Customer Service and Marketing; Senior Vice President and Treasurer; and designees to enter into an arrangement for a $1.5 billion

prepayment transaction with Memphis Light, Gas and Water Division.

*C—Energy*

C1. Contracts with Page Clearing Contractors and Crisp & Crisp, Inc., for clearing of right-of-way areas for new transmission line construction.

C2. Supplement to contract with CBP Engineering Corporation for piping, flanges, fittings, and services for any TVA fossil plant.

C3. Contract with Underwater Construction Corporation for diving services at TVA facilities.

C4. Delegation of authority to the Executive Vice President, Fossil Power Group, to enter into term coal contracts with Alliance Coal LLC; Resource Sales, Inc.; and SCB LLC for coal supply to Paradise Fossil Plant.

*E—Real Property Transactions*

E1. Grant of a permanent easement to the Colbert County Commission for a bridge improvement project, affecting approximately 0.3 acre of land on Pickwick Reservoir in Colbert County, Alabama, Tract No. XTPR–70H.

E2. Sale of a noncommercial, nonexclusive permanent easement to Tim Cormier for construction and maintenance of recreational water-use facilities, affecting approximately 0.3 acre of land on Tellico Reservoir in Monroe County, Tennessee, Tract No. XTELR–244RE.

E3. Grant of a permanent easement to the Town of Grant, Alabama, for a wastewater discharge line, affecting approximately 1.4 acres of land on Guntersville Reservoir, Marshall County, Alabama, Tract No. XTGR–173P.

E4. Sale of a permanent easement to Thomas Saint for a road access, affecting approximately 0.06 acre of land on Guntersville Dam Reservation in Marshall County, Alabama, Tract No. XGR–758H.

E5. Abandonment of certain transmission line easement rights to Southern Services of Tennessee LLC, affecting approximately 9.3 acres, Tract Nos. KN–397 and KN–398, in exchange for transmission line easement rights affecting approximately 14.1 acres in Davidson County, Tennessee, Tract Nos. 2KNR–3 and 2KNR–6.

E6. Modification of certain deed restrictions to allow for fill and a portion of a house to remain on the David W. and Gina M. Sakich property, affecting 0.2 acre of former TVA land on Chickamauga Reservoir in Hamilton County, Tennessee, Tract No. XCR–415, S.2X.

E7. Consent to a land sale by the U.S. Department of Agriculture, Forest Service, to Dan Livorsi, affecting approximately 0.76 acre of former TVA land on Watauga Reservoir in Johnson County, Tennessee, Tract No. XTWAR–11.

*F—Other*

F1. Approval to file condemnation cases to acquire easements and rights-of-way for TVA power transmission line projects affecting the Basin-Toccoa Transmission Line in Polk County, Tennessee, and Fannin County, Georgia, and the West Sparta-Sparta District Transmission Line in White County, Tennessee.

*Information Items*

1. Approval of a blanket contract with Ashley Sling, Inc., for wire rope, slings, and fittings at any TVA location.

2. Approval of a supplement to TVA's cooperative agreement with the State of Alabama for the operation and maintenance of radiological emergency plans.

3. Approval of a supplement to the contract with Retiree Resources Corporation for staff augmentation services.

4. Approval of a supplement to the contract with Shook and Fletcher Insulation Company for insulation materials and related products.

5. Approval of a supplement to the contract with Bulwark/VF Workwear, Inc., for flame resistant daily-wear clothing.

6. Approval of a contract with Chem-Nuclear Systems, LLC, for disposal of TVA's low-level radioactive waste at the Barnwell site in South Carolina.

7. Approval of revised Dispersed Power Production Guidelines for TVA and distributors of TVA Power.

8. Approval of a contract with American Coal Sales Company for coal supply to Johnsonville Fossil Plant.

9. Approval of contracts with L. E. Myers, Henkels and McCoy, and Dillard Smith for general construction/craft services related to the Transmission/Power Supply Group construction program.

10. Approval of the sale of a 30-year term easement and temporary construction easement to Colonial Pipeline Company for the construction and operation of a refine petroleum pipeline, affecting approximately 5.6 acres of TVA land in Bradley and McMinn Counties, Tennessee, Tract No. XCR–704P

11. Approval to implement the results of negotiations with the Office and Professional Employees International Union over compensation for employees.

12. Amendments to the Rules and Regulations of the TVA Retirement System and to the Provisions of the TVA Savings and Deferral Retirement Plan.

13. Approval to establish a Financial Trading Pilot Program and authorization for TVA to trade certain futures contracts and options on futures contracts solely for the purpose of hedging certain fuel-related price risks.

14. Approval of TVA's contribution to the TVA Retirement System for Fiscal Year 2004.

**FOR FURTHER INFORMATION CONTACT:** Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: October 29, 2003.

**Maureen H. Dunn,**

*General Counsel and Secretary.*

[FR Doc. 03–27629 Filed 10–30–03; 10:07 am]

**BILLING CODE 8120–08–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Application 03–06–C–00–FAR To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Hector International Airport, Fargo, ND

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

**ACTION:** Notice of intent to rule on application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Hector International Airport under the provisions of the 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

**DATES:** Comments must be received on or before December 3, 2003.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Bismarck Airports District Office, 2301 University Drive, Building 23B, Bismarck, North Dakota 58504.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Shawn Dobberstein, Executive Director, Hector International Airport, at the following

address: P.O. Box 2845, Fargo, North Dakota 58108.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Municipal Airport Authority of Fargo under section 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** Thomas T. Schauer, Program Manager, Bismarck Airports District Office, 2301 University Drive, Building 23B, Bismarck, North Dakota 58504, (701) 323–7380. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Hector International Airport under the provisions of the 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 6, 2003, the FAA determined that the application to impose and use the revenue from a PFC submitted by Municipal Airport Authority of Fargo was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 7, 2004.

The following is a brief overview of the application.

*Proposed change effective date:* July 1, 2004.

*Proposed change expiration date:* June 1, 2017.

*Level of the proposed PFC:* $4.50.

*Total estimated PFC revenue:* $12,469,848.

*Brief description of proposed projects:* PFC Application, PFC Annual Audit, Administration of PFC, Snow Removal Equipment Front End Loaders, Continuous Friction Measuring Equipment, Runway Sweeper, Remove Power Line Obstruction, Security Fence Modifications, Storm Sewer Modifications/Rehabilitations, Passenger Terminal Rehabilitation, Rehabilitate Rotating Beacon Lower Platform, Electrical Vault Modification, Wildlife Hazard Assessment, Land Acquisition—Parcel 1, General Aviation Apron, Taxiway A Storm Sewer, Air Carrier Apron Rehabilitation, Runway 8/26 Extension, Access Control System Upgrade, Reconstruct Taxiway B and G2, Relocate Runway 31 Threshold, and Construct G3, Remove and Replace Security Fence along Taxiway A, and Preliminary Engineering for the Reconstruction of Runway 17/35, Reconstruction of Runway 17/35.

*Class or classes, of air carriers, which the public agency has requested, not be required to collect PFCs:* Air Taxi/Commercial Operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Municipal Airport Authority of Fargo.

Issued in Des Plaines, Illinois on October 23, 2003.

**Laurie Suttmeier,**

*Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.*

[FR Doc. 03–27508 Filed 10–31–03; 8:45 am]

**BILLING CODE 4910–13–M**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Application 03–02–C–00–LMT To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Klamath Falls Airport, Submitted by the City of Klamath Falls, Klamath Falls Airport, Klamath Falls, OR

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

**ACTION:** Notice of intent to rule on application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Klamath Falls Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

**DATES:** Comments must be received on or before December 3, 2003.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. J. Wade Bryant, Manager, Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250, Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Harold Wight, Airport Director, at the following address: 6775 Arnold Avenue, Klamath Falls, Oregon 97603.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Klamath Falls Airport, under section 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** Ms. Suzanne Lee-Pang, (425) 227–2654, Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250, Renton, Washington 98055–4056. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application 03–02–C–00–LMT to impose and use PFC revenue at Klamath Falls Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 22, 2003, the FAA determined that the regulation to impose and use the revenue from a PFC submitted by City of Klamath Falls, Klamath Falls Airport, Klamath Falls, Oregon was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 4, 2004.

The following is a brief overview of the application.

*Level of the proposed PFC:* $4.50.

*Proposed charge effective date:* August 1, 2004.

*Proposed charge expiration date:* December 1, 2011.

*Total requested for use approval:* $877,799.

*Brief description of proposed project:* Runway Safety Area Design and Construction; Construct Northwest Apron; Master Plan; Parking Expansion; Security Fencing; Security Enhancement Equipment; Rehabilitation of West Side Apron, including Associated Taxiway.

*Class or classes of air carriers which the public agency has requested not be required to collect PFC's:* None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Klamath Falls Airport.

Issued in Renton, Washington on October 22, 2003.

**Carolyn T. Read,**

*Acting Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.*

[FR Doc. 03–27510 Filed 10–31–03; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Application (03–09–C–00–SLC) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Salt Lake City International Airport, Submitted by the Salt Lake City Department of Airports, Salt Lake City, UT

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

**ACTION:** Notice of intent to rule on application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Salt Lake City International Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

**DATES:** Comments must be received on or before December 3, 2003.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Craig A. Sparks, Manager; Denver Airports District Office, DEN–ADO, Federal Aviation Administration; 26805 East 68th Avenue, Suite 224, Denver, Colorado 80249.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Timothy L. Campbell, Executive Director, at the following address: Salt Lake City Department of Airports, 776 N. Terminal Dr., TUI, Suite 250, Salt Lake City, Utah 84122.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Salt Lake City International Airport, under section 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** Mr. Christopher J. Schaffer, (303) 342–1258, 26805 East 68th Avenue, Suite 224, Denver, Colorado 80249, The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application 03–09–C–00–SLC to impose and use PFC revenue at Salt Lake City International Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 22, 2003, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Salt Lake City Department of Airports, Salt Lake City, Utah, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 22, 2004.

The following is a brief overview of the application.

*Level of the proposed PFC:* $4.50.

*Proposed charge effective date:* August 1, 2006.

*Proposed charge expiration date:* May 31, 2007.

*Total requested for use approval:* $25,459,000.

*Brief description of proposed projects:* Concourse E improvements, Concourse B remodel, Terminal Unit II east expansion, Terminal Unit II outbound baggage system, Terminal Unit I bag claim expansion, airfield equipment, and glycol land application piping.

*Class or classes of air carriers which the public agency has requested not be required to collect PFC's:* All air taxi/commercial operators filing or required to file FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW, Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Salt Lake City International Airport.

Issued in Renton, Washington on October 22, 2003.

**Carolyn T. Read,**

*Acting Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.*

[FR Doc. 03–27509 Filed 10–31–03; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Environmental Impact Statement: Chisago County, MN and Polk County, WI

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent to terminate EIS.

**SUMMARY:** The FHWA is issuing this notice to advise the public that the Environmental Impact Statement (EIS) process for proposed transportation improvements in the Trunk Highway (TH) 8 corridor between Interstate 35 (I–35) to the west in Chisago County, Minnesota and the TH 8/Highway 35 intersection to the east in Polk County, Wisconsin is terminated. The original Notice of Intent for this EIS process was published in the **Federal Register** on May 14, 2002.

**FOR FURTHER INFORMATION CONTACT:** Cheryl Martin, Environmental Engineer, Federal Highway Administration, Galtier Plaza, Suite 500, 380 Jackson Street, St. Paul, Minnesota 55101, Telephone (651) 291–6120; or Tod Sherman, Project Manager, Minnesota Department of Transportation—Metro Division, Waters Edge Building, 1500 West County Road B–2, Roseville, Minnesota 55113, Telephone (651) 582–1548; (651) 296–9930 TTY.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Minnesota Department of Transportation (Mn/DOT) and the Wisconsin Department of Transportation (Wis/DOT), has terminated the EIS process begun in 2002 to provide safety, operational and capacity improvements to the TH 8 Corridor from I–35 to the west in Chisago County, Minnesota to the intersection of TH 8/Highway 35 to the east in Polk County, Wisconsin. The original proposed project could have included capacity expansion on sections of TH 8, upgrading existing roadway systems in the Corridor, providing geometric/traffic control access improvements along TH 8, and providing new roadway facilities including some alternatives that utilize the TH 243 bridge crossing over the St. Croix River.

The ''Trunk Highway 8 Scoping Document/Draft Scoping Decision Document'' was published in September 2002, and copies of the document were distributed to agencies, interested persons and libraries for review to aid in identifying issues and analyses to be contained in the EIS. A 45-day comment period for review of the document was provided to afford an opportunity for all interest persons, agencies and groups to comment on the proposed action. A public Scoping Meeting was also on October 21, 2002. Public notice was given for the time and place of the meeting, and approximately 400 people were in attendance.

As a result of the scoping process, including agency and public comments, FHWA and Mn/DOT, in consultation with Wis/DOT, Chisago County, the TH 8 Task Force and TH 8 Technical Advisory Committee, decided to eliminate alternatives that included proposed transportation facilities on a new location from further consideration. The proposed action has been modified to include only transportation

improvements along the existing TH 8 alignment. Therefore, the FHWA, in cooperation with Mn/DOT, will prepare subsequent environmental documents, either at the Environmental Assessment of Categorical Exclusion level for projects that will provide safety, operational and capacity improvements to the TH 8 Corridor from I–35 to Taylors Falls, Chisago County, Minnesota. The proposed improvements could include capacity expansion on sections of TH 8, and providing geometric/traffic control and access improvements along TH 8. Based on funding availability, the proposed improvements along the TH 8 Corridor could occur in phases. The environmental documents will define and evaluate projects with independent utility.

Coordination has been initiated and will continue with appropriate Federal, State and local agencies and private organizations and citizens who have previously expressed or are known to have an interest in the proposed action. Public meetings have been held in the past and will continue to be held, with public notice given for the time and place of the meetings. To ensure that the full range of issues related to this proposed action are addressed and all issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the need for an EIS should be directed to the FHWA at the address provided above.

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

Issued on: October 21, 2003.

**Stanley M. Graczyk,**

*Project Development Engineer, Federal Highway Administration, St. Paul, Minnesota.*

[FR Doc. 03–27595 Filed 10–31–03; 8:45 am]

**BILLING CODE 4910–22–M**

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2003–16401]**

### Notice of Receipt of Petition for Decision That Nonconforming 2002–2004 Smart Car Passion, Pulse, and Pure (Coupe and Cabriolet) Passenger Cars Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of receipt of petition for decision that nonconforming 2002–2004 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars are eligible for importation.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2002–2004 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

**DATE:** The closing date for comments on the petition is December 3, 2003.

**ADDRESS:** Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590 (docket hours are from 9 a.m. to 5 p.m.). 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 DOT'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*.

**FOR FURTHER INFORMATION CONTACT:** Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

**SUPPLEMENTARY INFORMATION:**

### Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

G&K Automotive Conversion, Inc. of Santa Ana, California (''G&K'') (Registered Importer 90–007) has petitioned NHTSA to decide whether nonconforming 2002–2004 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars are eligible for importation into the United States. Another registered importer, J.K. Technologies, LLC of Baltimore, Maryland (''J.K.'') (Registered Importer 90–006), previously petitioned NHTSA to decide whether 2003–2004 Micro Car Company Smart Passion (glass top and convertible) passenger cars are eligible for importation. NHTSA published notice of J.K.'s petition on June 20, 2003 at 68 FR 37040. The comment period on that petition has closed and the agency is in the process of deciding whether to grant the petition. If the agency grants J.K.'s petition, there will be no need for it to take action on G&K's petition insofar as it seeks import eligibility for 2003–2004 Smart Car Passion (coupe and cabriolet) passenger cars, as those are the same vehicles as the ones covered by J.K.'s petition. If the agency decides to deny J.K.'s petition, it will again determine whether those vehicles are eligible for importation in its consideration of G&K's petition. As part of that consideration, the agency will also address, for the first time, the import eligibility of 2002 Passion, Pulse, and Pure model Smart Cars, and 2003–2004 Pulse and Pure model Smart Cars, since those vehicles were not included in J.K.'s petition.

G&K contends that nonconforming 2002–2004 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars are eligible for importation under 49 U.S.C. 30141(a)(1)(B) because they have safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

Specifically, the petitioner claims that 2002–2004 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars have safety features that comply with Standard Nos. 103 *Defrosting and Defogging Systems* (based on testing for which G&K is claiming confidentiality), 104 *Windshield Wiping and Washing Systems* (based on testing for which G&K is claiming confidentiality), 106 *Brake Hoses* (based on the equipment manufacturer's certification), 109 *New Pneumatic Tires* (based on the presence of required certification markings), 116 *Brake Fluid* (based on the presence of required markings), 118 *Power Window Systems* (based on observation of the system's operation), 124 *Accelerator Control Systems* (based on observation of the system's operation), 202 *Head Restraints* (based on testing for which G&K is claiming confidentiality), 205 *Glazing Materials* (based on the presence of required certification markings), 207 *Seating Systems* (based on testing for which G&K is claiming confidentiality), 210 *Seat Belt Assembly Anchorages* (based on testing for which G&K is claiming confidentiality), 212 *Windshield Retention* (based on testing for which G&K is claiming confidentiality), and 219 *Windshield Zone Intrusion* (based on testing for which G&K is claiming confidentiality).

Petitioner further contends that the vehicles are capable of being altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Inscription of the word ''Brake'' and a seat belt warning symbol on the dash; (b) modification of the speedometer to read in miles per hour. The petitioner states that the controls and displays are visible and accessible to the driver while restrained by a lap and shoulder belt, that controls for the headlamps, the windshield defrosting and defogging system, and the windshield wiping system and panel are all identified, and that all required controls are illuminated.

Standard No. 102 *Transmission Shift Lever Sequence:* Modification of the shift lever markings, the shift pattern, the starter interlock, and the automatic transmission braking effect to achieve compliance with this standard. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Modification of the headlamp to meet the standard; (b) installation of side markers. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* Inscription of the required warning statement on the face of the passenger side rearview mirror.

Standard No. 114 *Theft Protection:* Modification of the key locking system to meet this standard. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications.

Standard No. 135 *Passenger Car Brake Systems:* Modification of the hydraulic brake system and the parking brake system through the installation of components available only from G&K. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Standard No. 201 *Occupant Protection in Interior Impact:* Replacement of interior components with components fabricated by, and available only through, G&K. The petition does not describe these components or their manner of installation. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Standard No. 204 *Steering Control Displacement:* Modification of the vehicles to meet the standard. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Standard No. 206 *Door Locks and Door Retention Components:* Modification of the door locks and door retention components to meet the standard. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicle would meet this standard with these modifications performed.

Standard No. 208 *Occupant Crash Protection:* Modification of the vehicles to meet this standard. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Standard No. 209 *Seat Belt Assemblies:* Modification of the seat belt systems to meet this standard. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications.

Standard No. 214 *Side Impact Protection:* Modification of the vehicles through the installation of components available only from G&K. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the static and dynamic testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Standard No. 216 *Roof Crush Resistance:* Modification of the vehicles to meet this standard. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Standard No. 225 *Child Restraint Anchorage Systems:* Installation of a U.S.-model tether anchorage behind the passenger seat on coupe models.

Standard No. 301 *Fuel System Integrity:* Modification of the vehicles' fuel system through the installation of components available only from G&K. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Standard No. 302 *Flammability of Interior Materials:* Treatment of interior materials and components covered by the standard with material available only from G&K. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

The petitioner states that a vehicle identification number plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565. The petitioner further states that a certification label must be affixed to the driver's door jamb to meet the requirements of 49 CFR part 567.

Additionally, the petitioner states that 2002–2004 Smart Car Passion, Pulse,

and Pure (coupe and cabriolet) passenger cars must be modified through the installation of components available only from G&K to comply with the Bumper Standard found in 49 CFR part 581. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590 (docket hours are from 9 a.m. to 5 p.m.). It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(B) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: October 28, 2003.

**Kenneth N. Weinstein,**

*Associate Administrator for Enforcement.*

[FR Doc. 03–27504 Filed 10–31–03; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2003–16402]**

### Notice of Receipt of Petition for Decision That Nonconforming 2002 Nissan Pathfinder 4 Wheel Drive Multipurpose Passenger Vehicles Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of receipt of petition for decision that nonconforming 2002 Nissan Pathfinder 4 wheel drive multipurpose passenger vehicles (MPVs) are eligible for importation.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2002 Nissan Pathfinder 4 wheel drive MPVs that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

**DATE:** The closing date for comments on the petition is December 3, 2003.

**ADDRESS:** Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590 (docket hours are from 9 a.m. to 5 p.m.). 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 DOT'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.*

**FOR FURTHER INFORMATION CONTACT:** Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA, 202–366–3151.

**SUPPLEMENTARY INFORMATION:**

### Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle of the same model year that was originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and that the vehicle is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Sunshine Car Import of Cape Coral, Florida (''Sunshine'') (Registered Importer 01–289) has petitioned NHTSA to decide whether 2002 Nissan Pathfinder 4 wheel drive MPVs are eligible for importation into the United States. The vehicles that Sunshine believes are substantially similar are 2002 Nissan Pathfinder 4 wheel drive MPVs that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2002 Nissan Pathfinder 4 wheel drive MPVs to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Sunshine submitted information with its petition intended to demonstrate that non-U.S. certified 2002 Nissan Pathfinder 4 wheel drive MPVs, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2002 Nissan Pathfinder 4 wheel drive MPVs are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 135 *Passenger Car Brake Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Petitioner states that the vehicles are equipped with anti-theft devices that exempt them from the parts marking requirements of the Theft Prevention Standard found in 49 CFR part 541.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) Substitution of the word ''Brake'' for the ECE warning symbol as a marking for the brake failure indicator lamp; (b) replacement or conversion of the speedometer to read in miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: Inspection of all vehicles and replacement of noncompliant lighting system components with U.S-model parts on vehicles that are not already so equipped.

Standard No. 110 *Tire Selection and Rims*: Installation of a tire information placard.

Standard No. 111 *Rearview Mirror*: Inscription of the required warning statement on the face of the passenger side rearview mirror.

Standard No. 114 *Theft Protection*: Installation of a key warning buzzer, or reprogramming of the key lock system with U.S.-version software information to achieve compliance with the standard.

Standard No. 118 *Power Window Systems*: Inspection of all vehicles and installation, on vehicles that are not already so equipped, of a relay that will prevent the window transport from operating when the ignition is in the ''off'' position.

Standard No. 208 *Occupant Crash Protection*: (a) Installation of a seat belt warning buzzer, wired to the seat belt micro switch; (b) inspection of all vehicles and installation of U.S.-model seat belts, driver's and passenger's air bags, knee bolsters, control unit, and sensors on vehicles that are not already so equipped. The petitioner states that the vehicles should be equipped with combination lap and shoulder belts at the front and rear outboard seating positions that are self-tensioning and released by means of a single red push button, and with a lap belt in the rear center seating position.

Standard No. 214 *Side Impact Protection*: Inspection of all vehicles and installation of U.S.-model door beams on vehicles that are not already so equipped.

Standard No. 225 *Child Restraint Anchorage Systems*: Installation of U.S.-model tether anchorages.

Standard No. 301 *Fuel System Integrity*: Inspection of all vehicles and replacement of the filler neck (including restrictor) and the filler cap with U.S.-model components on vehicles that are not already so equipped.

Petitioner states that all vehicles must be inspected for compliance with the Bumper Standard found in 49 CFR part 581, and that U.S.-model components will be installed on any vehicles that are not already so equipped.

In addition, the petitioner states that a vehicle identification number (VIN) plate must be affixed to the vehicles so that it is readable from outside the driver's windshield pillar, and a reference and certification label must be affixed to the edge of the driver's side door or to the latch post nearest the driver to meet the requirements of 49 CFR Part 565.

Lastly, the petitioner states that a certification label will be affixed to the driver's side doorjamb to meet the requirements of the vehicle certification regulations in 49 CFR part 567.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590 (docket hours are from 9 a.m. to 5 p.m.). It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: October 8, 2003.

**Kenneth N. Weinstein,**

*Associate Administrator for Enforcement.*

[FR Doc. 03–27505 Filed 10–31–03; 8:45 am]

BILLING CODE 4910–59–P

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## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

**[Docket No. NHTSA–03–15687; Notice 2]**

## Ford Motor Company; Grant of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 103

We are granting the application by Ford Motor Company (''Ford'') of Dearborn, Michigan, for a temporary exemption from Motor Vehicle Safety Standard (FMVSS) No. 103, *Defrosting and Defogging Systems.* Ford asserted that compliance would prevent it from selling a motor vehicle whose overall level of safety is at least equal to that of a non-exempted vehicle.

Notice of receipt of the application was published on July 22, 2003, and an opportunity afforded for comment (68 FR 43419).

### The Motor Vehicle for Which a Temporary Exemption Is Sought

Ford is the manufacturer of the Lincoln Town Car. It plans to make this model available in a ''Ballistic Protection Series (BPS).'' The Town Car BPS will be equipped with a windshield that is 40.68 mm thick, as contrasted with the standard Town Car's windshield of 4.9 mm thickness. The company related that ''this thickness and the associated heat transfer properties are engineered to provide protection from impacts by certain rifle rounds * * *.'' Ford does not envision producing more than 300 Town Car BPS Series in any calendar year.

### How the Town Car BPS Fails To Comply With FMVSS No. 103

Paragraph S4.2 of FMVSS No. 103 establishes defrosting requirements for passenger car windshields. Ford related that ''At this time clearance of the windshield in the time required under FMVSS 103 S4.2 can only be met with the usage of the washer fluid.'' It is also necessary to use the windshield wipers in conjunction with washer fluid in order to clear the windshield.[1]

### Arguments Presented by Ford Demonstrating That the Town Car BPS Provides an Overall Level of Safety at Least Equal to a Non-Exempted Motor Vehicle

To maximize the defroster performance, the special windshield of the BPS is equipped with an embedded electrical grid. Ford's laboratory tests show that the windshield can, in fact, be cleared within the time required by S4.2 ''by using both the defroster (including the hot air system and the embedded electrical grid in the windshield) and the windshield washer system.'' Ford conducted a test on March 19, 2003, and reported use of the solvent and the defroster cleared 100% of Zones A and C in 20 minutes. It advised that ''The information provided with the vehicle will advise the vehicle operator to use the combined approach in defrosting the windshield.'' However, Ford anticipates that these special purpose vehicles are more likely to be garaged than parked in the open, and that the need to operate the defroster system will be minimal.

[1] This is permissible under S4.3(d) of FMVSS No. 103.

**Arguments Presented by Ford as to Why a Temporary Exemption Would Be in the Public Interest and Consistent With Objectives of Motor Vehicle Safety**

The windshield of the Lincoln Town Car BPS differs from those of armored vehicles produced by other manufacturers in that it will provide ''a bullet resistant environment against rifle level threats,'' as contrasted with ''handgun level'' threats. According to Ford, ''Customers, including certain agencies of the U.S. Government, have expressed a need for vehicles with this level of protection for vehicle occupants.'' Ford argued that its product will enhance the safety ''for those individuals that are either government officials or certain other high profile individuals that are at a higher level of risk for terrorist attacks or assassination attempts.'' Orders have already been placed by the General Services Administration (GSA) on behalf of two government entities. To emphasize the minimal nature of the noncompliance, Ford enclosed a copy of its test report indicating passage of S4.2 using washer fluid, which has been placed in the docket.

**Public Comment Received**

We received one anonymous comment which recommended that the petition be denied. In the commenter's view, if the petition is granted, the commenter should also be allowed to drive a nonconforming (imported) vehicle whose overall level of safety is at least equal to that of a nonexempted vehicle. The comment did not address the merits of the petition and we have not considered it relevant in our decision to grant Ford's request.

**Our Findings in Granting Ford's Application**

Ford has requested a temporary exemption from a Federal motor vehicle safety standard that is intended to assist a vehicle operator in avoiding a crash. Therefore, it is especially important that we consider the possible effect on safety of such an exemption.

Standard No. 103 is, in effect, a de-icing standard rather than a defrosting standard. To provide more uniform and repeatable test results, the SAE specifies that a coating of ice be applied to the windshield before the test begins. The SAE notes (Paragraph 1, SAE Recommended Practice J902a ''Passenger Car Windshield Defrosting Systems,'' March 1967) that ''The time element for ice removal, therefore, is longer than that required to remove frost, which is the prime purpose of the defroster system.'' Frost generally forms overnight. Considering Ford's argument that the special-purpose BPS is likely to be garaged rather than parked in the open, the likelihood of frost formation on the BPS windshield is less than that on the windshield of a car that is not parked overnight in a garage.

Section 4.2 of FMVSS No. 103 requires that certain windshield areas be defrosted in a compliance test, as set forth in SAE Recommended Practice J902, ''Passenger Car Windshield Defrosting Systems,'' August 1964, incorporated by reference. They are called the ''critical area'' and ''entire windshield.'' Paragraph S4.2 of Standard No. 103 defines ''critical area'' as Area C and ''entire windshield'' as Area A. After 20 minutes of the test, conducted with the defroster system ''on full'' and the blower ''on high,'' Area C must be at least 80 percent defrosted and, after 40 minutes, the ''entire windshield'' shall be at least 95 percent defrosted. Ford has not quantified the extent of its noncompliance using the defroster system alone. However, both Area C and Area A on the BPS windshield are 100% defrosted in 20 minutes with the assistance of the windshield washer system. The petition indicates that solvent was not applied for the full 20 minutes, which would raise the question of capacity of the washer system, but only for a limited period. Ford's Engineering Test Report noted that a ''Breakthrough occurred at 12 minutes and 15 seconds, 15 seconds after washer solvent was squirted.'' Although Ford did not present these test results specifically as a safety equivalent argument, we note that use of the washer system simultaneously with the defroster system not only resulted in compliance with the minimum performance requirements of Standard No. 103 but also resulted in a quicker clearance of the windshield than the standard requires. In short, an overall level of safety that may be considered at least equal to that of a nonexempted motor vehicle.

Ford's public interest argument is that the level of protection provided by the Town Car BPS is one that is needed for the protection of government or high profile individuals who are potential targets for terrorist attacks or assassination attempts. We concur and note that the vehicle will afford the same protection to the driver as it does to the passenger. It is critical to safety that the operator of a vehicle under attack, which may be speeding to avoid danger, be uninjured and in control of the vehicle. The fact that the GSA has ordered BPS vehicles on behalf of two U.S. government agencies enhances the argument that an exemption would be in the public interest.

In consideration of the foregoing, we hereby find that to require compliance with S4.2 of Standard No. 103 would prevent the applicant from selling a motor vehicle whose overall level of safety is at least equal to that of a non-exempted vehicle, and that a temporary exemption is in the public interest and consistent with objectives of motor vehicle safety. Accordingly, Ford Motor Company is hereby granted NHTSA Temporary Exemption No. EX 03–3 from Paragraph S4.2 of 49 CFR 571.103, Standard No. 103, ''Windshield Defrosting and Defogging Systems.'' The exemption covers only the Lincoln Town Car Ballistic Protection Series (BPS) and expires on September 1, 2005.

**Authority:** 49 U.S.C. 30113; delegation of authority at 49 CFR 1.50.

Issued on: October 28, 2003.

**Jeffrey W. Runge,**

*Administrator.*

[FR Doc. 03–27506 Filed 10–31–03; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

## Surface Transportation Board

**[STB Finance Docket No. 34417]**

## Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF), pursuant to a written trackage rights agreement entered into between BNSF and Union Pacific Railroad Company (UP), has agreed to grant local trackage rights to UP over a BNSF line of railroad between BNSF milepost 114.5 and BNSF milepost 117.0 near Endicott, NE, a distance of approximately 2.5-miles.[1]

Although UP indicates that the transaction was scheduled to be consummated on October 20, 2003, the earliest the transaction could be

[1] UP submits that the trackage rights are only temporary rights, but, because they are ''local'' rather than ''overhead'' rights, the do not qualify for the Board's new class exemption for temporary trackage rights at 49 CFR 1180.2(d)(8). *See Railroad Consolidation Procedures—Exemption for Temporary Trackage Rights,* STB Ex Parte No. 282 (Sub-No. 20) (STB served May 23, 2003). Therefore, UP and BNSF concurrently have filed a petition for partial revocation of this exemption in STB Finance Docket No. 34417 (Sub-No. 1), *Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company,* wherein UP and BNSF request that the Board permit the proposed local trackage rights arrangement described in the present proceeding to expire on October 15, 2004. That petition will be addressed by the Board in a separate decision.

consummated was October 21, 2003 (7 days after the filing of the notice).

The purpose of the trackage rights is to permit UP to serve the shipper at Endicott until BNSF's trackage can be repaired or other arrangements can be made for continued rail service to this shipper, following severe washouts on BNSF's line in this area.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.-Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34417 must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Robert T. Opal, 1416 Dodge Street, Room 830, Omaha, NE 68179.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: October 24, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 03–27357 Filed 10–31–03; 8:45 am]

**BILLING CODE 4915–00–P**

## DEPARTMENT OF THE TREASURY

### Fiscal Service

### Financial Management Service; Proposed Collection of Information: Direct Deposit Sign-Up Form

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Financial Management Service, 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. By this notice, the Financial Management Service solicits comments concerning the Form 1199A ''Direct Deposit Sign-Up Form.''

**DATES:** Written comments should be received on or before January 2, 2004.

**ADDRESSES:** Direct all written comments to Financial Management Service, 3700 East West Highway, Records and Information Management Program Staff, Room 135, Hyattsville, Maryland 20782.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Susan Alvarez, Room 304–D, 401 14th Street, SW., Washington, DC 20227, (202) 874–6908.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service Solicits comments on the collection of information described below.

*Title:* Direct Deposit Sign-Up Form.

*OMB Number:* 1510–0007.

*Form Number:* 1199A.

*Abstract:* This form is used by recipients to authorize the deposit of Federal payments into their accounts at financial institutions. The information on the form routes the direct deposit payment to the correct account at the financial institution.

*Current Actions:* Extension of currently approved collection.

*Type of Review:* Regular.

*Affected Public:* Individuals or households, Business or other for-profit, Federal Government.

*Estimated Number of Respondents:* 604,000.

*Estimated Time Per Respondent:* 10 minutes.

*Estimated Total Annual Burden Hours:* 102,680.

*Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. 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.

**Bettsy H. Lane,**

*Assistant Commissioner, Federal Finance.*

[FR Doc. 03–27516 Filed 10–31–03; 8:45 am]

**BILLING CODE 4810–35–M**

## DEPARTMENT OF THE TREASURY

### Fiscal Service

### Financial Management Service; Proposed Collection of Information: Claim Against the United States for the Proceeds of a Government Check

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Financial Management Service, 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. by this notice, the Financial Management Service solicits comments concerning the Form FMS–1133 ''Claim Against the United States for the Proceeds of a Government Check.''

**DATES:** Written comments should be received on or before January 2, 2004.

**ADDRESSES:** Direct all written comments to Financial Management Service, 3700 East West Highway, Records and Information Management Program Staff, Room 135, Hyattsville, Maryland 20782.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Dawn Johns, Manager, Check Claims Branch, Room 831D, 3700 East West Highway, Hyattsville, Maryland 20782, (202) 874–8445.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

*Title:* Claim Against the United States for the Proceeds of a Government Check.

*OMB Number:* 1510–0019.

*Form Number:* FMS–1133.

*Abstract:* This form is used to collect information needed to process an individual's claim for non-receipt of proceeds from a government check. Once the information is analyzed, a determination is made and a recommendation is submitted to the program agency to either settle or deny the claim.

*Current Actions:* Extension of currently approved collection.

*Type of Review:* Regular.

*Affected Public:* Individuals or households .

*Estimated Number of Respondents:* 53,895.

*Estimated Time Per Respondent:* 19 minutes.

*Estimated Total Annual Burden Hours:* 10,229.

*Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. 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.

**Judith R. Tillman,**

*Assistant Commissioner, Financial Operations.*

[FR Doc. 03–27517 Filed 10–31–03; 8:45 am]

**BILLING CODE 4810–35–M**

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## DEPARTMENT OF THE TREASURY

## Office of the Comptroller of the Currency

## FEDERAL DEPOSIT INSURANCE CORPORATION

## DEPARTMENT OF THE TREASURY

## Office of Thrift Supervision

## Agency Information Collection Activities: Proposed Extension of Information Collection; Comment Request

**AGENCIES:** Office of the Comptroller of the Currency (OCC), Treasury; Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

**ACTION:** Joint notice and request for comment.

**SUMMARY:** The OCC, FDIC, and OTS (collectively, the Agencies), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed extension, without revision, of their continuing information collections, as required by the Paperwork Reduction Act of 1995. The Agencies may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. Currently, the Agencies are soliciting comment concerning the proposed extension, without change, of OMB approval of the information collections contained in the information collection titled, ''Interagency Guidance on Asset Securitization Activities.''

**DATES:** Comments should be submitted by January 2, 2004.

**ADDRESSES:** Comments should be directed to the Agencies and the OMB Desk Officer for the Agencies as follows:

*OCC:* Office of the Comptroller of the Currency, Public Information Room, 250 E Street, SW., Mail Stop 1–5, Attention: 1557–0217, Washington, DC 20219. Due to delays in delivery of paper mail in the Washington area, commenters are encouraged to submit comments by fax or electronic mail. Comments may be sent by fax to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov.* You can inspect and photocopy comments at the OCC's Public Information Room. You can make an appointment to inspect the comments by calling (202) 874–5043.

*FDIC:* Steven F. Hanft, Paperwork Clearance Officer, Legal Division, Room MB–3064, Attention: Comments/Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. All comments should refer to ''Interagency Guidance on Asset Securitization Activities, 3064–0137.'' Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. Fax number (202) 898–3838; Internet address: *comments@fdic.gov.* Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC between 9 a.m. and 4:30 p.m. on business days.

*OTS:* Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: 1550–0104, Fax number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

OMB Desk Officer for the Agencies: Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503, or e-mail to *jlackeyj@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** You may request additional information from:

*OCC:* Jessie B. Dunaway, OCC Clearance Officer, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

*FDIC:* Steven F. Hanft, Paperwork Clearance Officer, (202) 898–3907, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

*OTS:* Marilyn K. Burton, OTS Clearance Officer, (202) 906–6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:**

*Title:* Interagency Guidance on Asset Securitization Activities.

*OMB Control Numbers:*

OCC: 1557–0217.
FDIC: 3064–0137.
OTS: 1550–0104.

*Type of Review:* Extension, without revision, of a currently approved collection.

*Form Number:* None.

*Abstract:* The information collection recordkeeping requirements in the Interagency Guidance are applicable to institutions engaged in asset securitization activities. The Guidance requires institutions to develop a written asset securitization policy, documentation of fair value of retained interests, and a management information system to monitor securitization activities. Institution management uses the information as the basis for the safe and sound operation of their asset securitization activities. The Agencies use the information to evaluate the quality of an institution's risk management practices.

*Affected Public:* Businesses or other for-profit.

*Burden Estimates:*

*Estimated Number of Respondents:*

OCC: 50.

FDIC:70.
OTS: 30.

*Estimated Number of Responses:*

OCC: 50.
FDIC:70.
OTS: 30.

*Estimated Annual Burden Hours:*

OCC: 2,115 hours.
FDIC:2,070 hours.
OTS: 1,260 hours.

*Frequency of Response:* On occasion.

**Comments**

Comments submitted in response to this notice will be summarized in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the 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 on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 8, 2003.

**Mark J. Tenhundfeld,**

*Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.*

Dated at Washington, DC this 2nd day of October, 2003.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

Dated: October 9, 2003.

By the Office of Thrift Supervision.

**James E. Gilleran,**

*Director.*

[FR Doc. 03–27499 Filed 10–31–03; 8:45 am]

**BILLING CODES 4810–33–P; 6714–01–P; 6720–01–P**

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**Federal Register**

Vol. 68, No. 212

Monday, November 3, 2003

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## CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

## REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

## RULES GOING INTO EFFECT NOVEMBER 3, 2003

**AGRICULTURE DEPARTMENT**

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National Organic Program:
- Allowed and Prohibited Substances; National List; amendments; published 10-31-03

Soybean promotion, research, and consumer information:
- United Soybean Board; membership adjustment; published 10-3-03

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Biological agents and toxins; possession, use, and transfer:
- Agricultural Bioterrorism Protection Act of 2002; implementation—
  - Provisional registration certificates for individuals and entities and provisional grants of access to biological agents and toxins for individuals; published 11-3-03

Interstate transportation of animals and animal products (quarantine):
- Swine; inspection and interstate movement within production system; published 11-3-03

**AGRICULTURE DEPARTMENT**

**Farm Service Agency**

Program regulations:
- Citizenship requirements and loan eligibility regulations; technical changes; published 11-3-03

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**Rural Business-Cooperative Service**

Program regulations:
- Citizenship requirements and loan eligibility regulations; technical changes; published 11-3-03

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**Rural Housing Service**

Program regulations:
- Citizenship requirements and loan eligibility regulations; technical changes; published 11-3-03

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**Rural Utilities Service**

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Fishery conservation and management:
- Atlantic coastal fisheries cooperative management—
  - Weakfish; published 10-2-03
- Atlantic highly migratory species—
  - Atlantic bluefin tuna; published 10-2-03
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- Caribbean, Gulf, and South Atlantic fisheries—
  - South Atlantic pelagic sargassum habitat; published 10-3-03
- West Coast States and Western Pacific fisheries—
  - Pacific mackerel; published 10-3-03

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Air pollution control; new motor vehicles and engines:
- Compression-ignition marine engines at or above 30 liters per cylinder; emission standards
  - Correction; published 9-19-03

Air programs:
- Commercial and industrial solid waste incinerators constructed on or before November 30, 1999; Federal plan requirements; published 10-3-03

Air quality implementation plans; approval and promulgation; various States:
- California; published 9-4-03
- Michigan; published 9-2-03
- Minnesota; published 9-2-03

Hazardous waste program authorizations:
- South Carolina; published 9-2-03

Solid wastes:
- Project XL (eXcellence and Leadership) program; site-specific projects—
  - Georgia-Pacific Corp. pulp and paper mill, Big Island, VA; published 8-5-03

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Common carrier services:
- Individuals with hearing and speech disabilities; improved telecommunications relay and speech-to-speech services; published 11-3-03

**GOVERNMENT ETHICS OFFICE**

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**HEALTH AND HUMAN SERVICES DEPARTMENT**

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- Select agents and toxins; possession, use, and transfer; published 11-3-03

**HOMELAND SECURITY DEPARTMENT**

**Coast Guard**

Drawbridge operations:
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- Wisconsin; published 10-3-03

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

Community facilities:
- Urban empowerment zones and renewal communities; Round III designation; published 10-3-03

**NUCLEAR REGULATORY COMMISSION**

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
- Approved spent fuel storage casks; revised list; published 8-19-03

**SECURITIES AND EXCHANGE COMMISSION**

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- Custody of funds or securities of clients; published 10-1-03

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- Learjet; published 9-29-03

Standard instrument approach procedures; published 11-3-03

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**Agricultural Marketing Service**

Oranges, grapefruit, tangerines, and tangelos grown in Florida, and imported; comments due by 11-10-03; published 9-9-03 [FR 03-22948]

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**Animal and Plant Health Inspection Service**

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- Eucalyptus logs, lumber and wood chips from South America; comments due by 11-14-03; published 9-15-03 [FR 03-23432]

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**Forest Service**

National Forest System land and resource management planning; comments due by 11-10-03; published 9-10-03 [FR 03-22977]

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**National Oceanic and Atmospheric Administration**

Endangered and threatened species:
- Critical habitat designations—
  - Washington, Oregon, Idaho, and California; salmon and steelhead; evolutionarily significant units; comments due by 11-13-03; published 9-29-03 [FR 03-24568]

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- National Fire Plan; implementation; comments due by 11-10-03; published 10-9-03 [FR 03-25621]

Fishery conservation and management:
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Gulf of Mexico king mackerel, Spanish mackerel, and cobia; comments due by 11-13-03; published 10-14-03 [FR 03-25924]
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## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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**H.R. 1900/P.L. 108–101**

To award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of the Congress that there should be a national day in recognition of Jackie Robinson. (Oct. 29, 2003; 117 Stat. 1195)

**H.R. 3229/P.L. 108–102**

To amend title 44, United States Code, to transfer to the Public Printer the authority over the individuals responsible for preparing indexes of the Congressional Record, and for other purposes. (Oct. 29, 2003; 117 Stat. 1198)

**S. 1591/P.L. 108–103**

To redesignate the facility of the United States Postal Service located at 48 South Broadway, Nyack, New York, as the ''Edward O'Grady, Waverly Brown, Peter Paige Post Office Building''. (Oct. 29, 2003; 117 Stat. 1199)

**Last List October 29, 2003**

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| **16 Parts:** | | | |
| 0–999 | (869–050–00046–6) | 47.00 | Jan. 1, 2003 |
| 1000–End | (869–050–00047–4) | 57.00 | Jan. 1, 2003 |
| **17 Parts:** | | | |
| 1–199 | (869–050–00049–1) | 50.00 | Apr. 1, 2003 |
| 200–239 | (869–050–00050–4) | 58.00 | Apr. 1, 2003 |
| 240–End | (869–050–00051–2) | 62.00 | Apr. 1, 2003 |
| **18 Parts:** | | | |
| 1–399 | (869–050–00052–1) | 62.00 | Apr. 1, 2003 |
| 400–End | (869–050–00053–9) | 25.00 | Apr. 1, 2003 |
| **19 Parts:** | | | |
| 1–140 | (869–050–00054–7) | 60.00 | Apr. 1, 2003 |
| 141–199 | (869–050–00055–5) | 58.00 | Apr. 1, 2003 |
| 200–End | (869–050–00056–3) | 30.00 | Apr. 1, 2003 |
| **20 Parts:** | | | |
| 1–399 | (869–050–00057–1) | 50.00 | Apr. 1, 2003 |
| 400–499 | (869–050–00058–0) | 63.00 | Apr. 1, 2003 |
| 500–End | (869–050–00059–8) | 63.00 | Apr. 1, 2003 |
| **21 Parts:** | | | |
| 1–99 | (869–050–00060–1) | 40.00 | Apr. 1, 2003 |
| 100–169 | (869–050–00061–0) | 47.00 | Apr. 1, 2003 |
| 170–199 | (869–050–00062–8) | 50.00 | Apr. 1, 2003 |
| 200–299 | (869–050–00063–6) | 17.00 | Apr. 1, 2003 |
| 300–499 | (869–050–00064–4) | 29.00 | Apr. 1, 2003 |
| 500–599 | (869–050–00065–2) | 47.00 | Apr. 1, 2003 |
| 600–799 | (869–050–00066–1) | 15.00 | Apr. 1, 2003 |
| 800–1299 | (869–050–00067–9) | 58.00 | Apr. 1, 2003 |
| 1300–End | (869–050–00068–7) | 22.00 | Apr. 1, 2003 |
| **22 Parts:** | | | |
| 1–299 | (869–050–00069–5) | 62.00 | Apr. 1, 2003 |
| 300–End | (869–050–00070–9) | 44.00 | Apr. 1, 2003 |
| **23** | (869–050–00071–7) | 44.00 | Apr. 1, 2003 |
| **24 Parts:** | | | |
| 0–199 | (869–050–00072–5) | 58.00 | Apr. 1, 2003 |
| 200–499 | (869–050–00073–3) | 50.00 | Apr. 1, 2003 |
| 500–699 | (869–050–00074–1) | 30.00 | Apr. 1, 2003 |
| 700–1699 | (869–050–00075–0) | 61.00 | Apr. 1, 2003 |
| 1700–End | (869–050–00076–8) | 30.00 | Apr. 1, 2003 |
| **25** | (869–050–00077–6) | 63.00 | Apr. 1, 2003 |
| **26 Parts:** | | | |
| §§ 1.0–1–1.60 | (869–050–00078–4) | 49.00 | Apr. 1, 2003 |
| §§ 1.61–1.169 | (869–050–00079–2) | 63.00 | Apr. 1, 2003 |
| §§ 1.170–1.300 | (869–050–00080–6) | 57.00 | Apr. 1, 2003 |
| §§ 1.301–1.400 | (869–050–00081–4) | 46.00 | Apr. 1, 2003 |
| §§ 1.401–1.440 | (869–050–00082–2) | 61.00 | Apr. 1, 2003 |
| §§ 1.441–1.500 | (869–050–00083–1) | 50.00 | Apr. 1, 2003 |
| §§ 1.501–1.640 | (869–050–00084–9) | 49.00 | Apr. 1, 2003 |
| §§ 1.641–1.850 | (869–050–00085–7) | 60.00 | Apr. 1, 2003 |
| §§ 1.851–1.907 | (869–050–00086–5) | 60.00 | Apr. 1, 2003 |
| §§ 1.908–1.1000 | (869–050–00087–3) | 60.00 | Apr. 1, 2003 |
| §§ 1.1001–1.1400 | (869–050–00088–1) | 61.00 | Apr. 1, 2003 |
| §§ 1.1401–1.1503–2A | (869–050–00089–0) | 50.00 | Apr. 1, 2003 |
| §§ 1.1551–End | (869–050–00090–3) | 50.00 | Apr. 1, 2003 |
| 2–29 | (869–050–00091–1) | 60.00 | Apr. 1, 2003 |
| 30–39 | (869–050–00092–0) | 41.00 | Apr. 1, 2003 |
| 40–49 | (869–050–00093–8) | 26.00 | Apr. 1, 2003 |
| 50–299 | (869–050–00094–6) | 41.00 | Apr. 1, 2003 |
| 300–499 | (869–050–00095–4) | 61.00 | Apr. 1, 2003 |
| 500–599 | (869–050–00096–2) | 12.00 | [5] Apr. 1, 2003 |
| 600–End | (869–050–00097–1) | 17.00 | Apr. 1, 2003 |

| Title | Stock Number | Price | Revision Date |
|---|---|---|---|
| **27 Parts:** | | | |
| 1–199 | (869–050–00098–9) | 63.00 | Apr. 1, 2003 |
| 200–End | (869–050–00099–7) | 25.00 | Apr. 1, 2003 |
| **28 Parts:** | | | |
| 0–42 | (869–050–00100–4) | 61.00 | July 1, 2003 |
| 43–End | (869–050–00101–2) | 58.00 | July 1, 2003 |
| **29 Parts:** | | | |
| 0–99 | (869–050–00102–1) | 50.00 | July 1, 2003 |
| 100–499 | (869–050–00103–9) | 22.00 | July 1, 2003 |
| 500–899 | (869–050–00104–7) | 61.00 | July 1, 2003 |
| 900–1899 | (869–050–00105–5) | 35.00 | July 1, 2003 |
| 1900–1910 (§§ 1900 to 1910.999) | (869–050–00106–3) | 61.00 | July 1, 2003 |
| 1910 (§§ 1910.1000 to end) | (869–050–00107–1) | 46.00 | July 1, 2003 |
| 1911–1925 | (869–050–00108–0) | 30.00 | July 1, 2003 |
| 1926 | (869–050–00109–8) | 50.00 | July 1, 2003 |
| 1927–End | (869–050–00110–1) | 62.00 | July 1, 2003 |
| **30 Parts:** | | | |
| 1–199 | (869–048–00109–3) | 56.00 | July 1, 2002 |
| 200–699 | (869–050–00112–8) | 50.00 | July 1, 2003 |
| 700–End | (869–050–00113–6) | 57.00 | July 1, 2003 |
| **31 Parts:** | | | |
| 0–199 | (869–050–00114–4) | 40.00 | July 1, 2003 |
| 200–End | (869–050–00115–2) | 64.00 | July 1, 2003 |
| **32 Parts:** | | | |
| 1–39, Vol. I | | 15.00 | [2] July 1, 1984 |
| 1–39, Vol. II | | 19.00 | [2] July 1, 1984 |
| 1–39, Vol. III | | 18.00 | [2] July 1, 1984 |
| 1–190 | (869–050–00116–1) | 60.00 | July 1, 2003 |
| 191–399 | (869–050–00117–9) | 63.00 | July 1, 2003 |
| 400–629 | (869–050–00118–7) | 50.00 | July 1, 2003 |
| 630–699 | (869–050–00119–5) | 37.00 | [7] July 1, 2003 |
| 700–799 | (869–050–00120–9) | 46.00 | July 1, 2003 |
| 800–End | (869–050–00121–7) | 47.00 | July 1, 2003 |
| **33 Parts:** | | | |
| 1–124 | (869–050–00122–5) | 55.00 | July 1, 2003 |
| 125–199 | (869–048–00121–2) | 60.00 | July 1, 2002 |
| 200–End | (869–050–00124–1) | 50.00 | July 1, 2003 |
| **34 Parts:** | | | |
| 1–299 | (869–050–00125–0) | 49.00 | July 1, 2003 |
| 300–399 | (869–050–00126–8) | 43.00 | [7] July 1, 2003 |
| 400–End | (869–050–00127–6) | 61.00 | July 1, 2003 |
| **35** | (869–050–00128–4) | 10.00 | [6] July 1, 2003 |
| **36 Parts** | | | |
| 1–199 | (869–050–00129–2) | 37.00 | July 1, 2003 |
| 200–299 | (869–050–00130–6) | 37.00 | July 1, 2003 |
| 300–End | (869–050–00131–4) | 61.00 | July 1, 2003 |
| **37** | (869–050–00132–2) | 50.00 | July 1, 2003 |
| **38 Parts:** | | | |
| 0–17 | (869–050–00133–1) | 58.00 | July 1, 2003 |
| 18–End | (869–050–00134–9) | 62.00 | July 1, 2003 |
| **39** | (869–050–00135–7) | 41.00 | July 1, 2003 |
| **40 Parts:** | | | |
| 1–49 | (869–050–00136–5) | 60.00 | July 1, 2003 |
| 50–51 | (869–050–00137–3) | 44.00 | July 1, 2003 |
| 52 (52.01–52.1018) | (869–048–00136–1) | 55.00 | July 1, 2002 |
| 52 (52.1019–End) | (869–048–00137–9) | 58.00 | July 1, 2002 |
| 53–59 | (869–050–00140–3) | 31.00 | July 1, 2003 |
| 60 (60.1–End) | (869–050–00141–1) | 58.00 | July 1, 2003 |
| 60 (Apps) | (869–050–00142–0) | 51.00 | [8] July 1, 2003 |
| 61–62 | (869–050–00143–8) | 43.00 | July 1, 2003 |
| 63 (63.1–63.599) | (869–050–00144–6) | 58.00 | July 1, 2003 |
| 63 (63.600–63.1199) | (869–050–00145–4) | 50.00 | July 1, 2003 |
| 63 (63.1200–End) | (869–048–00144–1) | 61.00 | July 1, 2002 |
| 64–71 | (869–050–00148–9) | 29.00 | July 1, 2003 |
| 72–80 | (869–050–00149–7) | 61.00 | July 1, 2003 |
| 81–85 | (869–048–00147–6) | 47.00 | July 1, 2002 |
| 86 (86.1–86.599–99) | (869–048–00148–4) | 52.00 | [8] July 1, 2002 |
| 86 (86.600–1–End) | (869–050–00152–7) | 50.00 | July 1, 2003 |
| 87–99 | (869–050–00153–5) | 60.00 | July 1, 2003 |
| 100–135 | (869–050–00154–3) | 43.00 | July 1, 2003 |
| *136–149 | (869–150–00155–1) | 61.00 | July 1, 2003 |
| 150–189 | (869–050–00156–0) | 49.00 | July 1, 2003 |
| 190–259 | (869–050–00157–8) | 39.00 | July 1, 2003 |
| 260–265 | (869–050–00158–6) | 50.00 | July 1, 2003 |
| 266–299 | (869–048–00156–5) | 47.00 | July 1, 2002 |
| 300–399 | (869–050–00160–8) | 42.00 | July 1, 2003 |
| 400–424 | (869–050–00161–6) | 56.00 | July 1, 2003 |
| 425–699 | (869–050–00162–4) | 61.00 | July 1, 2003 |
| 700–789 | (869–050–00163–2) | 61.00 | July 1, 2003 |
| 790–End | (869–050–00164–1) | 58.00 | July 1, 2003 |
| **41 Chapters:** | | | |
| 1, 1–1 to 1–10 | | 13.00 | [3] July 1, 1984 |
| 1, 1–11 to Appendix, 2 (2 Reserved) | | 13.00 | [3] July 1, 1984 |
| 3–6 | | 14.00 | [3] July 1, 1984 |
| 7 | | 6.00 | [3] July 1, 1984 |
| 8 | | 4.50 | [3] July 1, 1984 |
| 9 | | 13.00 | [3] July 1, 1984 |
| 10–17 | | 9.50 | [3] July 1, 1984 |
| 18, Vol. I, Parts 1–5 | | 13.00 | [3] July 1, 1984 |
| 18, Vol. II, Parts 6–19 | | 13.00 | [3] July 1, 1984 |
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| 1–100 | (869–048–00162–0) | 23.00 | July 1, 2002 |
| 101 | (869–050–00166–7) | 24.00 | July 1, 2003 |
| 102–200 | (869–050–00167–5) | 50.00 | July 1, 2003 |
| 201–End | (869–050–00168–3) | 22.00 | July 1, 2003 |
| **42 Parts:** | | | |
| 1–399 | (869–048–00166–2) | 56.00 | Oct. 1, 2002 |
| 400–429 | (869–048–00167–1) | 59.00 | Oct. 1, 2002 |
| 430–End | (869–048–00168–9) | 61.00 | Oct. 1, 2002 |
| **43 Parts:** | | | |
| 1–999 | (869–048–00169–7) | 47.00 | Oct. 1, 2002 |
| 1000–end | (869–048–00170–1) | 59.00 | Oct. 1, 2002 |
| **44** | (869–048–00171–9) | 47.00 | Oct. 1, 2002 |
| **45 Parts:** | | | |
| 1–199 | (869–048–00172–7) | 57.00 | Oct. 1, 2002 |
| 200–499 | (869–048–00173–5) | 31.00 | [9] Oct. 1, 2002 |
| 500–1199 | (869–048–00174–3) | 47.00 | Oct. 1, 2002 |
| 1200–End | (869–048–00175–1) | 57.00 | Oct. 1, 2002 |
| **46 Parts:** | | | |
| 1–40 | (869–048–00176–0) | 44.00 | Oct. 1, 2002 |
| 41–69 | (869–048–00177–8) | 37.00 | Oct. 1, 2002 |
| 70–89 | (869–048–00178–6) | 14.00 | Oct. 1, 2002 |
| 90–139 | (869–048–00179–4) | 42.00 | Oct. 1, 2002 |
| 140–155 | (869–048–00180–8) | 24.00 | [9] Oct. 1, 2002 |
| 156–165 | (869–048–00181–6) | 31.00 | [9] Oct. 1, 2002 |
| 166–199 | (869–048–00182–4) | 44.00 | Oct. 1, 2002 |
| 200–499 | (869–048–00183–2) | 37.00 | Oct. 1, 2002 |
| 500–End | (869–048–00184–1) | 24.00 | Oct. 1, 2002 |
| **47 Parts:** | | | |
| 0–19 | (869–048–00185–9) | 57.00 | Oct. 1, 2002 |
| 20–39 | (869–048–00186–7) | 45.00 | Oct. 1, 2002 |
| 40–69 | (869–048–00187–5) | 36.00 | Oct. 1, 2002 |
| 70–79 | (869–048–00188–3) | 58.00 | Oct. 1, 2002 |
| 80–End | (869–048–00189–1) | 57.00 | Oct. 1, 2002 |
| **48 Chapters:** | | | |
| 1 (Parts 1–51) | (869–048–00190–5) | 59.00 | Oct. 1, 2002 |
| 1 (Parts 52–99) | (869–048–00191–3) | 47.00 | Oct. 1, 2002 |
| 2 (Parts 201–299) | (869–048–00192–1) | 53.00 | Oct. 1, 2002 |
| 3–6 | (869–048–00193–0) | 30.00 | Oct. 1, 2002 |
| 7–14 | (869–048–00194–8) | 47.00 | Oct. 1, 2002 |
| 15–28 | (869–048–00195–6) | 55.00 | Oct. 1, 2002 |
| 29–End | (869–048–00196–4) | 38.00 | [9] Oct. 1, 2002 |
| **49 Parts:** | | | |
| 1–99 | (869–048–00197–2) | 56.00 | Oct. 1, 2002 |
| 100–185 | (869–048–00198–1) | 60.00 | Oct. 1, 2002 |
| 186–199 | (869–048–00199–9) | 18.00 | Oct. 1, 2002 |
| 200–399 | (869–048–00200–6) | 61.00 | Oct. 1, 2002 |

| Title | Stock Number | Price | Revision Date |
|---|---|---|---|
| 400–999 | (869–048–00201–4) | 61.00 | Oct. 1, 2002 |
| 1000–1199 | (869–048–00202–2) | 25.00 | Oct. 1, 2002 |
| 1200–End | (869–048–00203–1) | 30.00 | Oct. 1, 2002 |
| **50 Parts:** | | | |
| 1–17 | (869–048–00204–9) | 60.00 | Oct. 1, 2002 |
| 18–199 | (869–048–00205–7) | 40.00 | Oct. 1, 2002 |
| 200–599 | (869–048–00206–5) | 38.00 | Oct. 1, 2002 |
| 600–End | (869–048–00207–3) | 58.00 | Oct. 1, 2002 |
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2002, through January 1, 2003. The CFR volume issued as of January 1, 2002 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2002, through July 1, 2003. The CFR volume issued as of July 1, 2002 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2001, through July 1, 2002. The CFR volume issued as of July 1, 2001 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2001, through October 1, 2002. The CFR volume issued as of October 1, 2001 should be retaine-

## TABLE OF EFFECTIVE DATES AND TIME PERIODS—NOVEMBER 2003

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

| DATE OF FR PUBLICATION | 15 DAYS AFTER PUBLICATION | 30 DAYS AFTER PUBLICATION | 45 DAYS AFTER PUBLICATION | 60 DAYS AFTER PUBLICATION | 90 DAYS AFTER PUBLICATION |
|---|---|---|---|---|---|
| Nov 3 | Nov 18 | Dec 3 | Dec 18 | Jan 2 | Feb 2 |
| Nov 4 | Nov 19 | Dec 4 | Dec 19 | Jan 5 | Feb 2 |
| Nov 5 | Nov 20 | Dec 5 | Dec 22 | Jan 5 | Feb 3 |
| Nov 6 | Nov 21 | Dec 8 | Dec 22 | Jan 5 | Feb 4 |
| Nov 7 | Nov 24 | Dec 8 | Dec 22 | Jan 6 | Feb 5 |
| Nov 10 | Nov 25 | Dec 10 | Dec 26 | Jan 9 | Feb 9 |
| Nov 12 | Nov 28 | Dec 12 | Dec 29 | Jan 12 | Feb 10 |
| Nov 13 | Nov 28 | Dec 15 | Dec 29 | Jan 12 | Feb 11 |
| Nov 14 | Dec 1 | Dec 15 | Dec 29 | Jan 13 | Feb 12 |
| Nov 17 | Dec 2 | Dec 17 | Jan 2 | Jan 16 | Feb 17 |
| Nov 18 | Dec 3 | Dec 18 | Jan 2 | Jan 20 | Feb 17 |
| Nov 19 | Dec 4 | Dec 19 | Jan 5 | Jan 20 | Feb 17 |
| Nov 20 | Dec 5 | Dec 22 | Jan 5 | Jan 20 | Feb 18 |
| Nov 21 | Dec 8 | Dec 22 | Jan 5 | Jan 20 | Feb 19 |
| Nov 24 | Dec 9 | Dec 24 | Jan 8 | Jan 23 | Feb 23 |
| Nov 25 | Dec 10 | Dec 26 | Jan 9 | Jan 26 | Feb 23 |
| Nov 26 | Dec 11 | Dec 26 | Jan 12 | Jan 26 | Feb 24 |
| Nov 28 | Dec 15 | Dec 29 | Jan 12 | Jan 27 | Feb 26 |